

**SB110 INTRODUCED**



1 XQLT77-1  
2 By Senator Smitherman  
3 RFD: Education Policy  
4 First Read: 21-Mar-23  
5



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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 legislative findings; 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



## SB110 INTRODUCED

29 law; and to require the State Board of Education to adopt  
30 rules to implement this act.

31 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

32 Section 1. The Legislature finds and declares all of  
33 the following:

34 (1) Alabama schools rely heavily on suspensions and  
35 expulsions to discipline children, and the out-of-school  
36 suspension rate in the state exceeds the national average.

37 (2) Removing students from the classroom is costly,  
38 ineffective, and increases the likelihood that Alabama youth  
39 will end up in the juvenile or adult justice system.

40 (3) Schools with high suspension and expulsion rates  
41 negatively impact the safety, well-being, and academic success  
42 of all students, not just those facing disciplinary action.

43 (4) Zero tolerance policies have not been shown to  
44 improve school climate or school safety and lead to higher  
45 rates of exclusionary disciplinary action.

46 (5) Absent statutory guidance, each local board of  
47 education in the state develops independent policies and  
48 procedures for students facing exclusionary discipline,  
49 resulting in disparate processes across the state and students  
50 being unfairly and mistakenly excluded from school without  
51 just cause.

52 (6) A fair and uniform statewide system of procedural  
53 due process protections is necessary for students facing  
54 exclusionary discipline.

55 Section 2. Section 16-1-14, Code of Alabama 1975, is  
56 amended to read as follows:



## SB110 INTRODUCED

57           "§16-1-14

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

60           (1) EXPULSION. The exclusion of a student from his or  
61 her regular school environment for more than 90, and less than  
62 180, school days for disciplinary purposes.

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

66           (b) Each local board of education~~Any city, county, or~~  
67 ~~other local public school board shall~~, consistent with Section  
68 16-28-12, ~~prescribe~~ shall adopt rules ~~and regulations~~ with  
69 respect to behavior and discipline of ~~pupils~~ students enrolled  
70 in the schools under its jurisdiction and, in order to enforce  
71 ~~such the~~ rules ~~and regulations~~, may remove, isolate, or  
72 separate ~~pupils~~ students who create disciplinary problems in  
73 any classroom or other school activity and whose presence in  
74 the class may be detrimental to the best interest and welfare  
75 of the ~~pupils of such~~ students of the class as a whole. Any  
76 rules ~~and regulations~~ adopted pursuant to this section shall  
77 be approved by the State Board of Education.

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

82           (d) (1) A student in pre-K through fifth grade may not  
83 be suspended or expelled from a public school, unless the  
84 behavior of the student endangers the physical safety of other



## SB110 INTRODUCED

85 students or school personnel.

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

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

93 (1) The age of the student.

94 (2) The disciplinary history of the student.

95 (3) The seriousness of the violation or behavior.

96 (4) Whether a lesser intervention could appropriately  
97 address the behavior of the student.

98 (f) Following an alleged violation of the code of  
99 student conduct or state law that results in a recommendation  
100 for long-term suspension or expulsion of a student, the local  
101 board of education shall ensure, at a minimum, that all of the  
102 following procedures are followed:

103 (1) The student shall be afforded an opportunity for a  
104 disciplinary hearing before a local board of education, or a  
105 neutral designee of the local board of education who is agreed  
106 to by both parties, to determine whether the alleged violation  
107 of the code of conduct or state law has occurred.

108 (2) The student shall receive reasonable written notice  
109 of the disciplinary hearing, delivered to him or her  
110 personally or by mail. The notice shall be given to all  
111 parties and to the parent or guardian of each student  
112 involved, and shall include all of the following:



## SB110 INTRODUCED

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

115 b. A short and plain statement detailing the alleged  
116 conduct and the code of student conduct provision or state law  
117 allegedly violated.

118 c. The names of any witnesses who may participate in  
119 the hearing.

120 d. A statement outlining the rights of the student at  
121 the hearing.

122 (3) The disciplinary hearing shall occur within 10  
123 school days after the initial suspension from school.

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

127 (5) The student, parent or guardian, and the  
128 representative of the student, at least five days before the  
129 hearing, may review any audio or video recording of the  
130 incident and, consistent with federal and state student  
131 records laws and regulations, any records, documents, or other  
132 information that may be presented as evidence at the hearing,  
133 including written statements made by witnesses related to the  
134 alleged incident leading to the suspension or expulsion.

135 (6) Representatives from the school seeking the  
136 proposed disciplinary action shall offer substantial evidence  
137 at the hearing that the student violated the code of student  
138 conduct or state law, including evidence of the student's  
139 intent at the time of the incident underlying the alleged  
140 violation.



## SB110 INTRODUCED

141 (7) The student, parent or guardian, or the  
142 representative of the student may present a defense, question  
143 adverse witnesses, and offer evidence, including oral  
144 testimony from supporting witnesses, written statements or  
145 other documentary evidence, and audio or video recordings at  
146 the hearing.

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

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

155 a. The basis for the decision, including a reference to  
156 the code of student conduct provision or state law that the  
157 student is accused of violating, and the evidence relied on by  
158 the local board of education or its neutral designee in  
159 reaching the decision.

160 b. A statement detailing what information will be  
161 included in the official record of the student.

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

166 (g) The State Board of Education shall adopt rules  
167 addressing both of the following:

168 (1) The factors a local board of education or its



## SB110 INTRODUCED

169 neutral designee shall consider when determining whether  
170 long-term suspension or expulsion is an appropriate  
171 disciplinary measure commensurate with the disciplinary  
172 incident or infraction committed, except as otherwise provided  
173 in Sections 16-1-24.1 and 16-1-24.3. These factors shall  
174 include the intent of the student, the culpability of the  
175 student, any relevant extenuating circumstances, and the  
176 impact of the alleged behavior on the school environment.

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

179 (h) Nothing in this section shall be construed to  
180 infringe on any right provided to students pursuant to the  
181 federal Individuals with Disabilities Education Act, Section  
182 504 of the Rehabilitation Act of 1973, or the Americans with  
183 Disabilities Act of 1990."

184 Section 3. This act shall become effective on the first  
185 day of the third month following its passage and approval by  
186 the Governor, or its otherwise becoming law.