

SB181 INTRODUCED



1 YDBU22-1

2 By Senators Smitherman, Singleton, Stewart, Figures

3 RFD: Education Policy

4 First Read: 05-Apr-23

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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



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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) Zero tolerance policies have not been shown to
41 improve school climate or school safety and lead to higher
42 rates of exclusionary disciplinary action.

43 (4) Absent statutory guidance, each local board of
44 education in the state develops independent policies and
45 procedures for students facing exclusionary discipline,
46 resulting in disparate processes across the state.

47 (5) A fair and uniform statewide system of procedural
48 due process protections is necessary for students facing
49 exclusionary discipline.

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

52 "§16-1-14

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

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



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57 180, school days for disciplinary purposes.

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

61 (b) Each local board of education~~Any city, county, or~~
62 ~~other local public school board shall~~, consistent with Section
63 16-28-12, ~~prescribe~~ shall adopt rules ~~and regulations~~ with
64 respect to behavior and discipline of ~~pupils~~ students enrolled
65 in the schools under its jurisdiction and, in order to enforce
66 ~~such the~~ rules ~~and regulations~~, may remove, isolate, or
67 separate ~~pupils~~ students who create disciplinary problems in
68 any classroom or other school activity and whose presence in
69 the class may be detrimental to the best interest and welfare
70 of the ~~pupils of such~~ students of the class as a whole. Any
71 rules ~~and regulations~~ adopted pursuant to this section shall
72 be approved by the State Board of Education.

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

77 (d) (1) A student in pre-K through fifth grade may not
78 be suspended or expelled from a public school, unless the
79 behavior of the student endangers the physical safety of other
80 students or school personnel or the student intentionally
81 causes damage to school property in excess of one thousand
82 dollars (\$1,000), but only as a last resort when other
83 disciplinary measures have been exhausted.

84 (2) A student in any grade may not be suspended or



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85 expelled from a public school for truancy or tardiness
86 violations of the code of student conduct or state law.

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

91 (1) The age of the student.

92 (2) The disciplinary history of the student.

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

94 (4) Whether a lesser intervention could appropriately
95 address the behavior of the student.

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

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

106 (2) The student and his or her parents or guardians
107 shall receive reasonable written notice of the disciplinary
108 hearing, delivered personally or by mail. The notice shall
109 include all of the following:

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

112 b. A short and plain statement detailing the alleged



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113 conduct and the code of student conduct provision or state law
114 allegedly violated.

115 c. The names of any witnesses who may participate in
116 the hearing.

117 d. A statement outlining the rights of the student at
118 the hearing.

119 e. An optional waiver of the disciplinary hearing
120 indicating the parent or guardian's assent to the alleged
121 violations and to the recommended discipline.

122 (3) If the waiver is not returned, the disciplinary
123 hearing shall occur within 10 school days after the initial
124 suspension from school.

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

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

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



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141 which may be used, if necessary, for determining an
142 appropriate and proportionate disciplinary response.

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

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

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

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

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



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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, the
182 Family Educational Rights and Privacy Act, Section 504 of the
183 Rehabilitation Act of 1973, or the Americans with Disabilities
184 Act of 1990."

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