

REFERENCE TITLE: **schools; corporal punishment; prohibition**

State of Arizona
House of Representatives
Fifty-third Legislature
Second Regular Session
2018

HB 2452

Introduced by
Representatives Fernandez: Alston, Andrade, Benally, Blanc, Bolding,
Cardenas, Chávez, Clark, Descheenie, Engel, Epstein, Espinoza, Gabaldón,
Martinez, Navarrete, Peten, Powers Hannley, Rios, Saldate, Salman,
Senator Quezada

AN ACT

**AMENDING TITLE 15, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY
ADDING SECTION 15-118; AMENDING SECTION 15-843, ARIZONA REVISED STATUTES;
RELATING TO PUPIL DISCIPLINE.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 15, chapter 1, article 1, Arizona Revised
3 Statutes, is amended by adding section 15-118, to read:

4 15-118. Corporal punishment; prohibition; definition

5 A. A TEACHER, PRINCIPAL OR OTHER PERSON WHO IS EMPLOYED BY A SCHOOL
6 DISTRICT OR CHARTER SCHOOL MAY NOT SUBJECT A PUPIL TO CORPORAL PUNISHMENT.

7 B. FOR THE PURPOSES OF THIS SECTION, "CORPORAL PUNISHMENT" MEANS
8 INFLECTING, OR CAUSING THE INFLECTION OF, PHYSICAL PAIN ON A PUPIL AS A
9 MEANS OF DISCIPLINE.

10 Sec. 2. Section 15-843, Arizona Revised Statutes, is amended to
11 read:

12 15-843. Pupil disciplinary proceedings; rules; hearings;
13 notification requirements

14 A. An action concerning discipline, suspension or expulsion of a
15 pupil is not subject to title 38, chapter 3, article 3.1, except that the
16 governing board of a school district shall post regular notice and shall
17 take minutes of any hearing held by the governing board concerning the
18 discipline, suspension or expulsion of a pupil.

19 B. The governing board of any school district, in consultation with
20 the teachers and parents of the school district, shall prescribe rules for
21 the discipline, suspension and expulsion of pupils. The rules shall be
22 consistent with the constitutional rights of pupils and shall include at
23 least the following:

24 1. Penalties for excessive pupil absenteeism pursuant to section
25 15-803, including failure in a subject, failure to pass a grade,
26 suspension or expulsion.

27 2. ~~Procedures for~~ A PROHIBITION AGAINST the use of corporal
28 punishment ~~if allowed by the governing board~~ AS DEFINED IN SECTION 15-118.

29 3. Procedures for the reasonable use of physical force by
30 certificated or classified personnel in self-defense, defense of others
31 and defense of property.

32 4. Procedures for dealing with pupils who have committed or who are
33 believed to have committed a crime.

34 5. A notice and hearing procedure for cases concerning the
35 suspension of a pupil for more than ten days.

36 6. Procedures and conditions for readmission of a pupil who has
37 been expelled or suspended for more than ten days.

38 7. Procedures for appeal to the governing board of the suspension
39 of a pupil for more than ten days, if the decision to suspend the pupil
40 was not made by the governing board.

41 8. Procedures for appeal of the recommendation of the hearing
42 officer or officers designated by the board as provided in subsection F of
43 this section at the time the board considers the recommendation.

44 9. Disciplinary policies for the confinement of pupils left alone
45 in an enclosed space. These policies shall include the following:

1 (a) A process for prior written parental notification that
2 confinement may be used for disciplinary purposes and that is included in
3 the pupil's enrollment packet or admission form.

4 (b) A process for prior written parental consent before confinement
5 is allowed for any pupil in the school district. The policies shall
6 provide for an exemption to prior written parental consent if a school
7 principal or teacher determines that the pupil poses imminent physical
8 harm to self or others. The school principal or teacher shall make
9 reasonable attempts to notify the pupil's parent or guardian in writing by
10 the end of the same day that confinement was used.

11 10. Procedures that require the school district to annually report
12 to the department of education in a manner prescribed by the department
13 the number of suspensions and expulsions that involve the possession, use
14 or sale of an illegal substance under title 13, chapter 34 and the type of
15 illegal substance involved in each suspension or expulsion. The
16 department of education shall compile this information and annually post
17 the information on its website. The information shall comply with the
18 family educational rights and privacy act of 1974 (P.L. 93-380; 88 Stat.
19 57; 20 United States Code section 1232g) and not include personally
20 identifiable information and shall show the number of suspensions and
21 expulsions associated with each illegal substance aggregated statewide and
22 by county.

23 C. Penalties adopted pursuant to subsection B, paragraph 1 of this
24 section for excessive absenteeism shall not be applied to pupils who have
25 completed the course requirements and whose absence from school is due
26 solely to illness, disease or accident as certified by a person who is
27 licensed pursuant to title 32, chapter 7, 13, 15 or 17.

28 D. The governing board shall:

29 1. Support and assist teachers in the implementation and
30 enforcement of the rules prescribed pursuant to subsection B of this
31 section.

32 2. Develop procedures allowing teachers and principals to recommend
33 the suspension or expulsion of pupils.

34 3. Develop procedures allowing teachers and principals to
35 temporarily remove disruptive pupils from a class.

36 4. Delegate to the principal the authority to remove a disruptive
37 pupil from the classroom.

38 E. If a pupil withdraws from school after receiving notice of
39 possible action concerning discipline, expulsion or suspension, the
40 governing board may continue with the action after the withdrawal and may
41 record the results of such AN action in the pupil's permanent file.

42 F. In all action concerning the expulsion of a pupil, the governing
43 board of a school district shall:

44 1. Be notified of the intended action.

1 2. Either:

2 (a) Decide, in executive session, whether to hold a hearing or to
3 designate one or more hearing officers to hold a hearing to hear the
4 evidence, prepare a record and bring a recommendation to the board for
5 action and whether the hearing shall be held in executive session.

6 (b) Provide by policy or vote at its annual organizational meeting
7 that all hearings concerning the expulsion of a pupil conducted pursuant
8 to this section will be conducted before a hearing officer selected from a
9 list of hearing officers approved by the governing board.

10 3. Give written notice, at least five working days before the
11 hearing by the governing board or the hearing officer or officers
12 designated by the governing board, to all pupils subject to expulsion and
13 their parents or guardians of the date, time and place of the hearing. If
14 the governing board decides that the hearing is to be held in executive
15 session, the written notice shall include a statement of the right of the
16 parents or guardians or an emancipated pupil who is subject to expulsion
17 to object to the governing board's decision to have the hearing held in
18 executive session. Objections shall be made in writing to the governing
19 board.

20 G. If a parent or guardian or an emancipated pupil who is subject
21 to expulsion disagrees that the hearing should be held in executive
22 session, ~~it~~ THE HEARING shall be held in an open meeting unless:

23 1. If only one pupil is subject to expulsion and disagreement
24 exists between that pupil's parents or guardians, the governing board,
25 after consultations with the pupil's parents or guardians or the
26 emancipated pupil, shall decide in executive session whether the hearing
27 will be in executive session.

28 2. If more than one pupil is subject to expulsion and disagreement
29 exists between the parents or guardians of different pupils, separate
30 hearings shall be held subject to this section.

31 H. This section does not prevent the pupil who is subject to
32 expulsion or suspension, and the pupil's parents or guardians and legal
33 counsel, from attending any executive session pertaining to the proposed
34 disciplinary action, from having access to the minutes and testimony of
35 the executive session or from recording the session at the parent's or
36 guardian's expense.

37 I. In schools employing a superintendent or a principal, the
38 authority to suspend a pupil from school is vested in the superintendent,
39 principal or other school officials granted this power by the governing
40 board of the school district.

41 J. In schools that do not have a superintendent or principal, a
42 teacher may suspend a pupil from school.

43 K. In all cases of suspension, it shall be for good cause and shall
44 be reported within five days to the governing board by the superintendent
45 or the person imposing the suspension.

1 L. Rules pertaining to the discipline, suspension and expulsion of
2 pupils shall not be based on race, color, religion, sex, national origin
3 or ancestry. If the department of education, the auditor general or the
4 attorney general determines that a school district is substantially and
5 deliberately not in compliance with this subsection and if the school
6 district has failed to correct the deficiency within ninety days after
7 receiving notice from the department of education, the superintendent of
8 public instruction may withhold the monies the school district would
9 otherwise be entitled to receive from the date of the determination of
10 noncompliance until the department of education determines that the school
11 district is in compliance with this subsection.

12 M. The principal of each school shall ensure that a copy of all
13 rules pertaining to discipline, suspension and expulsion of pupils is
14 distributed to the parents of each pupil at the time the pupil is enrolled
15 in school.

16 N. The principal of each school shall ensure that all rules
17 pertaining to the discipline, suspension and expulsion of pupils are
18 communicated to students at the beginning of each school year, and to
19 transfer students at the time of their enrollment in the school.

20 O. School districts may refer a pupil who has been subject to
21 discipline, suspension or expulsion pursuant to this section to a career
22 and college readiness program for at-risk students established pursuant to
23 section 15-707.