

Senate Engrossed House Bill

~~CTEDs; fourth-year funding~~
(now: schools; pupil discipline; suspensions; expulsions)

State of Arizona
House of Representatives
Fifty-fifth Legislature
First Regular Session
2021

CHAPTER 373
HOUSE BILL 2123

AN ACT

AMENDING SECTIONS 15-841, 15-842 AND 15-843, ARIZONA REVISED STATUTES;
RELATING TO SCHOOL ATTENDANCE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 15-841, Arizona Revised Statutes, is amended to
3 read:

4 15-841. Responsibilities of pupils; expulsion; alternative
5 education programs; alternative to suspension
6 programs; placement review committee

7 A. Pupils shall comply with the rules, pursue the required course
8 of study and submit to the authority of the teachers, the administrators
9 and the governing board. A teacher may send a pupil to the principal's
10 office in order to maintain effective discipline in the classroom. If a
11 pupil is sent to the principal's office pursuant to this subsection, the
12 principal shall employ appropriate discipline management techniques that
13 are consistent with rules adopted by the school district governing board.
14 A teacher may remove a pupil from the classroom if either of the following
15 conditions exists:

16 1. The teacher has documented that the pupil has repeatedly
17 interfered with the teacher's ability to communicate effectively with the
18 other pupils in the classroom or with the ability of the other pupils to
19 learn.

20 2. The teacher has determined that the pupil's behavior is so
21 unruly, disruptive or abusive that it seriously interferes with the
22 teacher's ability to communicate effectively with the other pupils in the
23 classroom or with the ability of the other pupils to learn.

24 B. A pupil may be expelled for continued open defiance of
25 authority, continued disruptive or disorderly behavior, violent behavior
26 that includes use or display of a dangerous instrument or a deadly weapon
27 as defined in section 13-105, use or possession of a gun, or excessive
28 absenteeism. A pupil may be expelled for excessive absenteeism only if
29 the pupil has reached the age or completed the grade after which school
30 attendance is not required as prescribed in section 15-802. A school
31 district may expel pupils for actions other than those listed in this
32 subsection as the school district deems appropriate. **ANY EXPULSIONS OF**
33 **PUPILS IN A KINDERGARTEN PROGRAM AND GRADES ONE THROUGH FOUR MUST COMPLY**
34 **WITH SECTION 15-843, SUBSECTION K.**

35 C. A school district may refuse to admit any pupil who has been
36 expelled from another educational institution or who is in the process of
37 being expelled from another educational institution.

38 D. A school district, ~~may~~ annually or ~~upon~~ **ON** the request of any
39 pupil or the parent or guardian, **MAY** review the reasons for **THE PUPIL'S**
40 expulsion and consider readmission.

41 E. As an alternative to suspension or expulsion, the school
42 district may reassign any pupil to an alternative education program if the
43 pupil does not meet the requirements for participation in the alternative
44 to suspension program prescribed in subsection ~~H~~ **I** of this section and if
45 good cause exists for expulsion or for a long-term suspension.

1 F. A school district may ~~also~~ reassign a pupil to an alternative
2 ~~educational~~ EDUCATION program if the pupil refuses to comply with rules,
3 refuses to pursue the required course of study or refuses to submit to the
4 authority of teachers, administrators or the governing board.

5 G. A school district or charter school shall expel from school for
6 a period of not less than one year a pupil who is determined to have
7 brought a firearm to a school within the jurisdiction of the school
8 district or the charter school, except that the school district or charter
9 school may modify this expulsion requirement for a pupil on a ~~case by case~~
10 CASE-BY-CASE basis. This subsection shall be construed consistently with
11 the requirements of the individuals with disabilities education act (20
12 United States Code sections 1400 through 1420). For the purposes of this
13 subsection:

14 1. "Expel" may include removing a pupil from a regular school
15 setting and providing educational services in an alternative setting.

16 2. "Firearm" means a firearm as defined in 18 United States Code
17 section 921.

18 H. A school district or charter school shall expel from school for
19 at least one year a pupil who is determined to have threatened an
20 educational institution ~~as defined in section 13-2911~~, except that the
21 school district or charter school may modify this expulsion requirement
22 for a pupil on a ~~case by case~~ CASE-BY-CASE basis if the pupil participates
23 in mediation, community service, restitution or other programs in which
24 the pupil takes responsibility for the results of the threat. This
25 subsection shall be construed consistently with the requirements of the
26 individuals with disabilities education act (20 United States Code
27 sections 1400 through 1420). A school district may reassign a pupil who
28 is subject to expulsion pursuant to this subsection to an alternative
29 education program pursuant to subsection E of this section if the pupil
30 participates in mediation, community service, restitution or other
31 programs in which the pupil takes responsibility for the threat. A school
32 district or charter school may require the pupil's parent or guardian to
33 participate in mediation, community service, restitution or other programs
34 in which the parent or guardian takes responsibility with the pupil for
35 the threat. For the purposes of this subsection, "threatened an
36 educational institution" means to interfere with or disrupt an educational
37 institution AS DEFINED IN SECTION 13-2911 by doing any of the following:

38 1. For the purpose of causing, or in reckless disregard of causing,
39 interference with or disruption of an educational institution, threatening
40 to cause physical injury to any employee of an educational institution or
41 any person attending an educational institution.

42 2. For the purpose of causing, or in reckless disregard of causing,
43 interference with or disruption of an educational institution, threatening
44 to cause damage to any educational institution, the property of any
45 educational institution, the property of any employee of an educational

1 institution or the property of any person attending an educational
2 institution.

3 3. Going on or remaining on the property of any educational
4 institution for the purpose of interfering with or disrupting the lawful
5 use of the property or in any manner as to deny or interfere with the
6 lawful use of the property by others.

7 4. Refusing to obey a lawful order to leave the property of an
8 educational institution.

9 I. ~~By January 1, 2001,~~ Each school district shall establish an
10 alternative to suspension program in consultation with local law
11 enforcement officials or school resource officers. The school district
12 governing board shall adopt policies to determine the requirements for
13 participation in the alternative to suspension program. Pupils who would
14 otherwise be subject to suspension pursuant to this article and who meet
15 the school district's requirements for participation in the alternative to
16 suspension program shall be transferred to a location on school premises
17 that is isolated from other pupils or transferred to a location that is
18 not on school premises. The alternative to suspension program shall be
19 discipline intensive and require academic work, and may require community
20 service, groundskeeping and litter control, parent supervision, and
21 evaluation or other appropriate activities. The community service,
22 groundskeeping and litter control, and other appropriate activities may be
23 performed on school grounds or at any other designated area.

24 J. Each school shall establish a placement review committee to
25 determine the placement of a pupil if a teacher refuses to readmit the
26 pupil to the teacher's class and to make recommendations to the governing
27 board regarding the readmission of expelled pupils. The process for
28 determining the placement of a pupil in a new class or replacement in the
29 existing class shall not exceed three business days ~~from~~ AFTER the date
30 the pupil was first removed from the existing class. The principal shall
31 not return a pupil to the classroom from which the pupil was removed
32 without the teacher's consent unless the committee determines that the
33 return of the pupil to that classroom is the best or only practicable
34 alternative. The committee shall be composed of two teachers who are
35 employed at the school and who are selected by the faculty members of the
36 school and one administrator who is employed by the school and who is
37 selected by the principal. The faculty members of the school shall select
38 a third teacher to serve as an alternate member of the committee. If the
39 teacher who refuses to readmit the pupil is a member of the committee,
40 that teacher shall be excused from participating in the determination of
41 the pupil's readmission and the alternate teacher member shall replace
42 that teacher on the committee until the conclusion of all matters relating
43 to that pupil's readmission.

1 Sec. 2. Section 15-842, Arizona Revised Statutes, is amended to
2 read:

3 15-842. Damage to school property; suspension or expulsion of
4 pupil; liability of parent

5 A. EXCEPT AS PROVIDED IN SECTION 15-843, SUBSECTION K, A pupil who
6 cuts, defaces or otherwise injures any school property may be suspended or
7 expelled.

8 B. ~~upon~~ ON complaint of the governing board, the parents or
9 guardians of minors who have injured school property ~~shall be~~ ARE liable
10 for all damages caused by their children or wards.

11 Sec. 3. Section 15-843, Arizona Revised Statutes, is amended to
12 read:

13 15-843. Pupil disciplinary proceedings; definition

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 ~~the use of~~ USING corporal punishment if allowed
28 by the governing board.

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~~ READMITTING a pupil
37 who has been expelled or suspended for more than ten days.

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

41 8. Procedures ~~for~~ TO 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.

1 9. Disciplinary policies for ~~the confinement of~~ CONFINING pupils
2 left alone in an enclosed space. These policies shall include the
3 following:

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

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

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

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

31 D. The governing board shall:

32 1. Support and assist teachers in ~~the implementation~~ IMPLEMENTING
33 and ~~enforcement of~~ ENFORCING the rules prescribed pursuant to subsection B
34 of this section.

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

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

39 4. Delegate to the principal the authority to remove a disruptive
40 pupil from the classroom.

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

1 F. In all ~~action~~ ACTIONS concerning the expulsion of a pupil, the
2 governing board of a school district shall:

3 1. Be notified of the intended action.
4 2. Either:

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

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

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

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

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

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

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

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

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

1 K. UNLESS REQUIRED BY SECTION 15-841, SUBSECTION G, A SCHOOL
2 DISTRICT OR CHARTER SCHOOL MAY SUSPEND OR EXPEL A PUPIL WHO IS ENROLLED IN
3 A KINDERGARTEN PROGRAM, FIRST GRADE, SECOND GRADE, THIRD GRADE OR FOURTH
4 GRADE ONLY IF ALL OF THE FOLLOWING APPLY:

5 1. THE PUPIL IS SEVEN YEARS OF AGE OR OLDER.

6 2. THE PUPIL ENGAGED IN CONDUCT ON SCHOOL GROUNDS THAT MEETS ONE OF
7 THE FOLLOWING CRITERIA:

8 (a) INVOLVES THE POSSESSION OF A DANGEROUS WEAPON WITHOUT
9 AUTHORIZATION FROM THE SCHOOL.

10 (b) INVOLVES THE POSSESSION, USE OR SALE OF A DANGEROUS DRUG AS
11 DEFINED IN SECTION 13-3401 OR A NARCOTIC DRUG AS DEFINED IN SECTION 13-
12 3401 OR A VIOLATION OF SECTION 13-3411.

13 (c) IMMEDIATELY ENDANGERS THE HEALTH OR SAFETY OF OTHERS.

14 (d) THE PUPIL'S BEHAVIOR IS DETERMINED BY THE SCHOOL DISTRICT
15 GOVERNING BOARD OR CHARTER SCHOOL GOVERNING BODY TO QUALIFY AS AGGRAVATING
16 CIRCUMSTANCES AND THAT ALL OF THE FOLLOWING APPLY:

17 (i) THE PUPIL IS ENGAGED IN PERSISTENT BEHAVIOR THAT HAS BEEN
18 DOCUMENTED BY THE SCHOOL AND THAT PREVENTS OTHER PUPILS FROM LEARNING OR
19 PREVENTS THE TEACHER FROM MAINTAINING CONTROL OF THE CLASSROOM
20 ENVIRONMENT.

21 (ii) THE PUPIL'S ONGOING BEHAVIOR IS UNRESPONSIVE TO TARGETED
22 INTERVENTIONS AS DOCUMENTED THROUGH AN ESTABLISHED INTERVENTION PROCESS
23 THAT INCLUDES CONSULTATION WITH A SCHOOL COUNSELOR, SCHOOL PSYCHOLOGIST OR
24 OTHER MENTAL HEALTH PROFESSIONAL OR SOCIAL WORKER IF AVAILABLE WITHIN THE
25 SCHOOL DISTRICT OR CHARTER SCHOOL OR THROUGH A STATE SPONSORED PROGRAM.

26 (iii) THE PUPIL'S PARENT OR GUARDIAN WAS NOTIFIED AND CONSULTED
27 ABOUT THE ONGOING BEHAVIOR.

28 (iv) BEFORE A LONG-TERM SUSPENSION OR EXPULSION, THE SCHOOL
29 PROVIDES THE PUPIL WITH A DISABILITY SCREENING AND THE SCREENING FINDS
30 THAT THE BEHAVIORAL ISSUES WERE NOT THE RESULT OF A DISABILITY.

31 3. FAILING TO REMOVE THE PUPIL FROM THE SCHOOL BUILDING WOULD
32 CREATE A SAFETY THREAT THAT CANNOT OTHERWISE REASONABLY BE ADDRESSED OR
33 QUALIFIES AS AGGRAVATING CIRCUMSTANCES AS SPECIFIED IN PARAGRAPH 2 OF THIS
34 SUBSECTION.

35 4. BEFORE SUSPENDING OR EXPELLING THE PUPIL, THE SCHOOL DISTRICT OR
36 CHARTER SCHOOL CONSIDERS AND, IF FEASIBLE WHILE MAINTAINING THE HEALTH AND
37 SAFETY OF OTHERS, IN CONSULTATION WITH THE PUPIL'S PARENT OR GUARDIAN TO
38 THE EXTENT POSSIBLE, EMPLOYS ALTERNATIVE BEHAVIORAL AND DISCIPLINARY
39 INTERVENTIONS THAT ARE AVAILABLE TO THE SCHOOL DISTRICT OR CHARTER SCHOOL,
40 THAT ARE APPROPRIATE TO THE CIRCUMSTANCES AND THAT ARE CONSIDERATE OF
41 HEALTH AND SAFETY. THE SCHOOL DISTRICT OR CHARTER SCHOOL SHALL DOCUMENT
42 THE ALTERNATIVE BEHAVIORAL AND DISCIPLINARY INTERVENTIONS IT CONSIDERS AND
43 EMPLOYS.

44 5. THE SCHOOL DISTRICT OR CHARTER SCHOOL, BY POLICY, PROVIDES FOR
45 BOTH:

1 (a) A READMISSION PROCEDURE FOR PUPILS WHO ARE IN KINDERGARTEN
2 PROGRAMS, FIRST GRADE, SECOND GRADE, THIRD GRADE AND FOURTH GRADE AND WHO
3 HAVE SERVED AT LEAST FIVE SCHOOL DAYS OF A SUSPENSION FROM THE SCHOOL THAT
4 EXCEEDS TEN SCHOOL DAYS TO BE CONSIDERED FOR READMISSION ON APPEAL OF THE
5 PUPIL'S PARENT OR GUARDIAN.

6 (b) A READMISSION PROCEDURE FOR PUPILS WHO ARE IN KINDERGARTEN
7 PROGRAMS, FIRST GRADE, SECOND GRADE, THIRD GRADE AND FOURTH GRADE AND WHO
8 ARE EXPELLED FROM OR SUBJECT TO ALTERNATIVE REASSIGNMENT AT THE SCHOOL TO
9 BE CONSIDERED FOR READMISSION ON APPEAL OF THE PUPIL'S PARENT OR GUARDIAN
10 AT LEAST TWENTY SCHOOL DAYS AFTER THE EFFECTIVE DATE OF THE EXPULSION OR
11 ALTERNATIVE REASSIGNMENT.

12 ~~K.~~ L. ~~It~~ All cases of suspension, ~~it~~ shall be for good cause and
13 shall be reported within five days to the governing board by the
14 superintendent or the person imposing the suspension.

15 ~~L.~~ M. Rules pertaining to the discipline, suspension and expulsion
16 of pupils shall not be based on race, color, religion, sex, national
17 origin or ancestry. If the department of education, the auditor general
18 or the attorney general determines that a school district is substantially
19 and deliberately not in compliance with this subsection and if the school
20 district has failed to correct the deficiency within ninety days after
21 receiving notice from the department of education, the superintendent of
22 public instruction may withhold the monies the school district would
23 otherwise be entitled to receive from the date of the determination of
24 noncompliance until the department of education determines that the school
25 district is in compliance with this subsection.

26 ~~M.~~ N. The principal of each school shall ensure that a copy of all
27 rules pertaining to discipline, suspension and expulsion of pupils is
28 distributed to the parents of each pupil at the time the pupil is enrolled
29 in school.

30 ~~N.~~ O. The principal of each school shall ensure that all rules
31 pertaining to the discipline, suspension and expulsion of pupils are
32 communicated to students at the beginning of each school year, and to
33 transfer students at the time of their enrollment in the school.

34 ~~O.~~ P. School districts may refer a pupil who has been subject to
35 discipline, suspension or expulsion pursuant to this section to a career
36 and college readiness program for at-risk students established pursuant to
37 section 15-707.

38 Q. FOR THE PURPOSES OF THIS SECTION, "AGGRAVATING CIRCUMSTANCES"
39 MEANS THE PUPIL IS ENGAGED IN PERSISTENT BEHAVIOR THAT:

- 40 1. HAS BEEN DOCUMENTED BY THE SCHOOL.
- 41 2. PREVENTS OTHER STUDENTS FROM LEARNING OR PREVENTS THE TEACHER
42 FROM MAINTAINING CONTROL OF THE CLASSROOM ENVIRONMENT.
- 43 3. IS UNRESPONSIVE TO TARGETED INTERVENTIONS AS DOCUMENTED THROUGH
44 AN ESTABLISHED INTERVENTION PROCESS.

H.B. 2123

APPROVED BY THE GOVERNOR MAY 21, 2021.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 21, 2021.