

REFERENCE TITLE: schools; pupil discipline; annual report

State of Arizona
Senate
Fifty-fifth Legislature
Second Regular Session
2022

SB 1438

Introduced by
Senator Quezada

AN ACT

AMENDING SECTION 15-843, ARIZONA REVISED STATUTES; RELATING TO THE
SUSPENSION AND EXPULSION OF PUPILS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 15-843, Arizona Revised Statutes, is amended to
3 read:

4 15-843. Pupil disciplinary proceedings; reporting
5 requirements; definitions

6 A. An action concerning THE discipline, suspension or expulsion of
7 a pupil is not subject to title 38, chapter 3, article 3.1, except that
8 the governing board of a school district shall post regular notice and
9 shall take minutes of any hearing held by the governing board concerning
10 the discipline, suspension or expulsion of a pupil.

11 B. The governing board of any school district, in consultation with
12 the teachers and parents of the school district, shall prescribe rules for
13 the discipline, suspension and expulsion of pupils. The rules shall be
14 consistent with the constitutional rights of pupils and shall include at
15 least the following:

16 1. Penalties for excessive pupil absenteeism pursuant to section
17 15-803, including failure in a subject, failure to pass a grade,
18 suspension or expulsion.

19 2. Procedures for using corporal punishment if allowed by the
20 governing board.

21 3. Procedures for the reasonable use of physical force by
22 certificated or classified personnel in self-defense, defense of others
23 and defense of property.

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

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

28 6. Procedures and conditions for readmitting a pupil who has been
29 expelled or suspended for more than ten days.

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

33 8. Procedures to appeal the recommendation of the hearing officer
34 or officers designated by the board as provided in subsection F of this
35 section at the time the board considers the recommendation.

36 9. Disciplinary policies for confining pupils WHO ARE left alone in
37 an enclosed space. These policies shall include the following:

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

41 (b) A process for prior written parental consent before confinement
42 is allowed for any pupil in the school district. The policies shall
43 provide for an exemption to prior written parental consent if a school
44 principal or teacher determines that the pupil poses imminent physical
45 harm to self or others. The school principal or teacher shall make

1 reasonable attempts to notify the pupil's parent or guardian in writing by
2 the end of the same day that confinement was used.

3 10. Procedures that require the school district to annually report
4 to the department of education in a manner prescribed by the department
5 the number of suspensions and expulsions that involve the possession, use
6 or sale of an illegal substance under title 13, chapter 34 and the type of
7 illegal substance involved in each suspension or expulsion. The
8 department of education shall compile this information and annually post
9 the information on its website. The information shall comply with the
10 family educational rights and privacy act of 1974 (P.L. 93-380; 88 Stat.
11 ~~57~~ 571; 20 United States Code section 1232g), shall not include personally
12 identifiable information and shall show the number of suspensions and
13 expulsions associated with each illegal substance aggregated statewide and
14 by county.

15 C. Penalties adopted pursuant to subsection B, paragraph 1 of this
16 section for excessive absenteeism shall not be applied to pupils who have
17 completed the course requirements and whose absence from school is due
18 solely to illness, disease or accident as certified by a person who is
19 licensed pursuant to title 32, chapter 7, 13, 14, 15 or 17.

20 D. The governing board shall:

21 1. Support and assist teachers in implementing and enforcing the
22 rules prescribed pursuant to subsection B of this section.

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

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

27 4. Delegate to the principal the authority to remove a disruptive
28 pupil from the classroom.

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

33 F. In all actions concerning the expulsion of a pupil, the
34 governing board of a school district shall:

35 1. Be notified of the intended action.

36 2. Either:

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

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

1 3. Give written notice, at least five working days before the
2 hearing by the governing board or the hearing officer or officers
3 designated by the governing board, to all pupils subject to expulsion and
4 their parents or guardians of the date, time and place of the hearing. If
5 the governing board decides that the hearing is to be held in executive
6 session, the written notice shall include a statement of the right of the
7 parents or guardians or an emancipated pupil who is subject to expulsion
8 to object to the governing board's decision to have the hearing held in
9 executive session. Objections shall be made in writing to the governing
10 board.

11 G. If a parent or guardian or an emancipated pupil who is subject
12 to expulsion disagrees that the hearing should be held in executive
13 session, the hearing shall be held in an open meeting unless:

14 1. If only one pupil is subject to expulsion and disagreement
15 exists between that pupil's parents or guardians, the governing board,
16 after consultations with the pupil's parents or guardians or the
17 emancipated pupil, shall decide in executive session whether the hearing
18 will be in executive session.

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

22 H. This section does not prevent the pupil who is subject to
23 expulsion or suspension, and the pupil's parents or guardians and legal
24 counsel, from attending any executive session pertaining to the proposed
25 disciplinary action, from having access to the minutes and testimony of
26 the executive session or from recording the session at the parent's or
27 guardian's expense.

28 I. In schools employing a superintendent or a principal, the
29 authority to suspend a pupil from school is vested in the superintendent,
30 principal or other school officials granted this power by the governing
31 board of the school district.

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

34 K. Unless required by section 15-841, subsection G, a school
35 district or charter school may suspend or expel a pupil who is enrolled in
36 a kindergarten program, first grade, second grade, third grade or fourth
37 grade only if all of the following apply:

38 1. The pupil is seven years of age or older.

39 2. The pupil engaged in conduct on school grounds that meets one of
40 the following criteria:

41 (a) Involves the possession of a dangerous weapon without
42 authorization from the school.

43 (b) Involves the possession, use or sale of a dangerous drug as
44 defined in section 13-3401 or a narcotic drug as defined in section
45 13-3401 or a violation of section 13-3411.

1 (c) Immediately endangers the health or safety of others.

2 (d) The pupil's behavior is determined by the school district
3 governing board or charter school governing body to qualify as aggravating
4 circumstances and ~~that~~ all of the following apply:

5 (i) The pupil is engaged in persistent behavior that has been
6 documented by the school and that prevents other pupils from learning or
7 prevents the teacher from maintaining control of the classroom
8 environment.

9 (ii) The pupil's ongoing behavior is unresponsive to targeted
10 interventions as documented through an established intervention process
11 that includes consultation with a school counselor, school psychologist or
12 other mental health professional or social worker if available within the
13 school district or charter school or through a state-sponsored program.

14 (iii) The pupil's parent or guardian was notified and consulted
15 about the ongoing behavior.

16 (iv) Before a long-term suspension or expulsion, the school
17 provides the pupil with a disability screening and the screening finds
18 that the behavioral issues were not the result of a disability.

19 3. Failing to remove the pupil from the school building would
20 create a safety threat that cannot otherwise reasonably be addressed or
21 qualifies as aggravating circumstances as specified in paragraph 2 of this
22 subsection.

23 4. Before suspending or expelling the pupil, the school district or
24 charter school considers and, if feasible while maintaining the health and
25 safety of others, in consultation with the pupil's parent or guardian to
26 the extent possible, employs alternative behavioral and disciplinary
27 interventions that are available to the school district or charter school,
28 that are appropriate to the circumstances and that are considerate of
29 health and safety. The school district or charter school shall document
30 the alternative behavioral and disciplinary interventions it considers and
31 employs.

32 5. The school district or charter school, by policy, provides for
33 both:

34 (a) A readmission procedure for pupils who are in kindergarten
35 programs, first grade, second grade, third grade and fourth grade and who
36 have served at least five school days of a suspension from the school that
37 exceeds ten school days to be considered for readmission on appeal of the
38 pupil's parent or guardian.

39 (b) A readmission procedure for pupils who are in kindergarten
40 programs, first grade, second grade, third grade and fourth grade and who
41 are expelled from or subject to alternative reassignment at the school to
42 be considered for readmission on appeal of the pupil's parent or guardian
43 at least twenty school days after the effective date of the expulsion or
44 alternative reassignment.

1 L. All cases of suspension shall be for good cause and shall be
2 reported within five days to the governing board by the superintendent or
3 the person imposing the suspension.

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

15 N. The principal of each school shall ensure that a copy of all
16 rules pertaining to discipline, suspension and expulsion of pupils is
17 distributed to the parents of each pupil at the time the pupil is enrolled
18 in THE school.

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

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

27 Q. ON OR BEFORE SEPTEMBER 1, 2023 AND EACH YEAR THEREAFTER, THE
28 DEPARTMENT OF EDUCATION SHALL SUBMIT TO THE GOVERNOR, THE PRESIDENT OF THE
29 SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE STATE BOARD OF
30 EDUCATION, AND PROVIDE A COPY TO THE SECRETARY OF STATE, A REPORT THAT
31 INCLUDES THE FOLLOWING INFORMATION:

32 1. THE TOTAL NUMBER OF STUDENTS ENROLLED IN EACH SCHOOL DISTRICT
33 AND EACH CHARTER SCHOOL AND IN EACH SUBGROUP.

34 2. THE PERCENTAGE THAT EACH SUBGROUP REPRESENTS OF THE SCHOOL
35 DISTRICT'S OR CHARTER SCHOOL'S TOTAL ENROLLMENT.

36 3. THE NUMBER OF STUDENTS WHO APPEAR IN MORE THAN ONE SUBGROUP.

37 4. THE DISCIPLINARY RATE FOR EACH DISCIPLINE MEASURE FOR THE TOTAL
38 STUDENT ENROLLMENT IN EACH SCHOOL DISTRICT OR CHARTER SCHOOL.

39 5. THE DISCIPLINARY RATE FOR EACH DISCIPLINE MEASURE FOR EACH
40 SUBGROUP.

41 6. THE RATE OF DISCIPLINARY DISPARITY FOR EACH DISCIPLINE MEASURE
42 FOR EACH SUBGROUP COMPARED WITH THE SUBGROUP WITH THE LOWEST DISCIPLINARY
43 RATE.

1 7. DISCIPLINE-RELATED STRATEGIES, ALTERNATIVES AND RESOURCES
2 AVAILABLE TO SCHOOL DISTRICTS AND CHARTER SCHOOLS.

3 R. THE REPORT PRESCRIBED IN SUBSECTION Q OF THIS SECTION MAY
4 INCLUDE ADDITIONAL INFORMATION THAT THE DEPARTMENT OF EDUCATION DETERMINES
5 WILL PROVIDE A BETTER UNDERSTANDING OF THE DISCIPLINARY RATE OR RATE OF
6 DISCIPLINARY DISPARITY OF A PARTICULAR SCHOOL, CHARTER SCHOOL OR SCHOOL
7 DISTRICT.

8 S. THE DEPARTMENT OF EDUCATION SHALL:

9 1. TRACK THE PROGRESS THAT SCHOOL DISTRICTS AND CHARTER SCHOOLS IN
10 THIS STATE MAKE IN REDUCING THE DISCIPLINARY RATE AND RATE OF DISCIPLINARY
11 DISPARITY.

12 2. IDENTIFY SCHOOL DISTRICTS AND CHARTER SCHOOLS THAT MAKE PROGRESS
13 IN REDUCING THE DISCIPLINARY RATE AND RATE OF DISCIPLINARY DISPARITY AND
14 ASSESS THE SUCCESSFUL STRATEGIES USED BY THOSE SCHOOL DISTRICTS AND
15 CHARTER SCHOOLS.

16 3. ASSESS THE GAINS, IF ANY, IN STUDENT ACADEMIC ACHIEVEMENT THAT
17 CORRESPOND TO THE REDUCTION OF DISCIPLINARY RATES AND RATES OF
18 DISCIPLINARY DISPARITY.

19 4. SUBMIT ANNUALLY TO THE STATE BOARD OF EDUCATION THE FOLLOWING
20 INFORMATION:

21 (a) THE PROGRESS MADE FOR THE YEAR.

22 (b) SUCCESSFUL STRATEGIES THAT OTHER SCHOOL DISTRICTS AND CHARTER
23 SCHOOLS USE.

24 (c) THE CORRESPONDING GAINS, IF ANY, IN STUDENT ACADEMIC
25 ACHIEVEMENT.

26 5. SURVEY SCHOOL DISTRICTS AND CHARTER SCHOOLS TO DETERMINE WHICH
27 SCHOOL DISTRICTS AND CHARTER SCHOOLS ARE CURRENTLY IMPLEMENTING
28 EVIDENCE-BASED STRATEGIES THAT REFLECT:

29 (a) POSITIVE BEHAVIOR INTERVENTIONS AND SUPPORT SYSTEMS.

30 (b) RESTORATIVE JUSTICE.

31 ~~Q.~~ T. For the purposes of this section: ~~;~~

32 1. "Aggravating circumstances" means the pupil is engaged in
33 persistent behavior that:

34 ~~1.~~ (a) Has been documented by the school.

35 ~~2.~~ (b) Prevents other students from learning or prevents the
36 teacher from maintaining control of the classroom environment.

37 ~~3.~~ (c) Is unresponsive to targeted interventions as documented
38 through an established intervention process.

39 2. "DISCIPLINARY RATE" MEANS A THREE-YEAR AVERAGE FOR EACH
40 DISCIPLINE MEASURE OF THE NUMBER OF STUDENTS IN A SCHOOL DISTRICT OR
41 CHARTER SCHOOL OR IN A SUBGROUP OF THE SCHOOL DISTRICT OR CHARTER SCHOOL
42 WHO HAVE AT LEAST ONE DISCIPLINE MEASURE DIVIDED BY THE CORRESPONDING
43 TOTAL ENROLLMENT IN THE SCHOOL DISTRICT OR CHARTER SCHOOL OR THE TOTAL
44 ENROLLMENT IN THE SUBGROUP.

- 1 3. "DISCIPLINE MEASURE" MEANS ANY OF THE FOLLOWING:
2 (a) IN-SCHOOL SUSPENSION.
3 (b) OUT-OF-SCHOOL SUSPENSION.
4 (c) EXPULSION.
5 (d) REFERRAL TO LAW ENFORCEMENT.
6 4. "RATE OF DISCIPLINARY DISPARITY" MEANS THE DISCIPLINARY RATE FOR
7 A SUBGROUP SUBTRACTED FROM THE DISCIPLINARY RATE FOR ANOTHER COMPARISON
8 SUBGROUP.
9 5. "SUBGROUP" MEANS ENROLLED STUDENTS WHO ARE IN ONE OF THE
10 FOLLOWING DEMOGRAPHIC GROUPS:
11 (a) WHITE STUDENTS.
12 (b) ASIAN STUDENTS.
13 (c) AMERICAN INDIAN OR ALASKA NATIVE STUDENTS.
14 (d) AFRICAN-AMERICAN STUDENTS.
15 (e) LATINO STUDENTS.
16 (f) NATIVE HAWAIIAN OR OTHER PACIFIC ISLANDER STUDENTS.
17 (g) LOW-INCOME STUDENTS, INCLUDING STUDENTS WHO ARE ECONOMICALLY
18 DISADVANTAGED FOR STANDARDIZED TESTING PURPOSES.
19 (h) STUDENTS WHO ARE A CHILD WITH A DISABILITY AS DEFINED IN
20 SECTION 15-761.
21 (i) STUDENTS WHOSE ACHIEVEMENT FOR THE SCHOOL YEAR IS AT THE BASIC
22 LEVEL OR BELOW THE BASIC LEVEL, OR THE EQUIVALENT, ON THE STATEWIDE
23 ASSESSMENT ADOPTED PURSUANT TO SECTION 15-741.