

REFERENCE TITLE: schools; corporal punishment; prohibition.

State of Arizona
House of Representatives
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HB 2075

Introduced by

Representatives Pawlik: Butler, Dalessandro, Epstein, Hernandez M, Jermaine, Liguori, Longdon, Powers Hannley, Quiñonez, Schwiebert, Solorio, Senators Bowie, Marsh

AN ACT

AMENDING SECTION 15-105, ARIZONA REVISED STATUTES; AMENDING TITLE 15, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 15-120.02; 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. Section 15-105, Arizona Revised Statutes, is amended to
3 read:
4 15-105. Use of restraint and seclusion techniques;
5 requirements; definitions
6 A. A school may ~~permit~~ ALLOW the use of restraint or seclusion
7 techniques on any pupil if both of the following apply:
8 1. The pupil's behavior presents an imminent danger of bodily harm
9 to the pupil or others.
10 2. Less restrictive interventions appear insufficient to mitigate
11 the imminent danger of bodily harm.
12 B. If a restraint or seclusion technique is used on a pupil:
13 1. School personnel shall maintain continuous visual observation
14 and monitoring of the pupil while the restraint or seclusion technique is
15 in use.
16 2. The restraint or seclusion technique shall end when the pupil's
17 behavior no longer presents an imminent danger to the pupil or others.
18 3. The restraint or seclusion technique shall be used only by
19 school personnel who are trained in the safe and effective use of
20 restraint and seclusion techniques unless an emergency situation does not
21 allow sufficient time to summon trained personnel.
22 4. The restraint technique employed may not impede the pupil's
23 ability to breathe.
24 5. The restraint technique may not be out of proportion to the
25 pupil's age or physical condition.
26 C. Schools may establish policies and procedures for ~~the use of~~
27 USING restraint or seclusion techniques in a school safety or crisis
28 intervention plan if the plan is not specific to any individual pupil.
29 D. Schools shall establish reporting and documentation procedures
30 to be followed when a restraint or seclusion technique has been used on a
31 pupil. The procedures shall include the following requirements:
32 1. School personnel shall provide the pupil's parent or guardian
33 with written or oral notice on the same day that the incident occurred,
34 unless circumstances prevent same-day notification. If the notice is not
35 provided on the same day of the incident, notice shall be given within
36 twenty-four hours after the incident.
37 2. Within a reasonable time following the incident, school
38 personnel shall provide the pupil's parent or guardian with written
39 documentation that includes information about any persons, locations or
40 activities that may have triggered the behavior, if known, and specific
41 information about the behavior and its precursors, the type of restraint
42 or seclusion technique used and the duration of its use.

1 3. Schools shall review strategies used to address a pupil's
2 dangerous behavior if there has been repeated use of restraint or
3 seclusion techniques for the pupil during a school year. The review shall
4 include a review of the incidents in which **A** restraint or seclusion
5 technique ~~were~~ **WAS** used and an analysis of how future incidents may be
6 avoided, including whether the pupil requires a functional behavioral
7 assessment.

8 E. If a school district or charter school summons law enforcement
9 instead of using a restraint or seclusion technique on a pupil, the school
10 shall comply with the reporting, documentation and review procedures
11 established under subsection D of this section. Notwithstanding this
12 section, school resource officers are authorized to respond to situations
13 that present the imminent danger of bodily harm according to protocols
14 established by their law enforcement agency.

15 F. This section does not prohibit schools from adopting policies
16 pursuant to section 15-843, subsection B, paragraph ~~3~~ **2**.

17 G. For the purposes of this section:

18 1. "Restraint" means any method or device that immobilizes or
19 reduces the ability of a pupil to move the pupil's torso, arms, legs or
20 head freely, including physical force or mechanical devices. Restraint
21 does not include any of the following:

22 (a) Methods or devices implemented by trained school personnel or
23 used by a pupil for the specific and approved therapeutic or safety
24 purposes for which the method or device is designed and, if applicable,
25 prescribed.

26 (b) The temporary touching or holding of the hand, wrist, arm,
27 shoulder or back for the purpose of inducing a pupil to comply with a
28 reasonable request or to go to a safe location.

29 (c) The brief holding of a pupil by one adult for the purpose of
30 calming or comforting the pupil.

31 (d) Physical force used to take a weapon away from a pupil or to
32 separate and remove a pupil from another person when the pupil is engaged
33 in a physical assault on another person.

34 2. "School" means a school district, a charter school, a public or
35 private special education school that provides services to pupils placed
36 by a public school, the Arizona state schools for the deaf and the blind
37 and a private school.

38 3. "Seclusion" means the involuntary confinement of a pupil alone
39 in a room from which egress is prevented. Seclusion does not include the
40 use of a voluntary behavior management technique, including a timeout
41 location, as part of a pupil's education plan, individual safety plan,
42 behavioral plan or individualized education program that involves the
43 pupil's separation from a larger group for purposes of calming.

1 Sec. 2. Title 15, chapter 1, article 1, Arizona Revised Statutes,
2 is amended by adding section 15-120.02, to read:

3 15-120.02. Corporal punishment: prohibition: definition

4 A. A TEACHER, PRINCIPAL OR OTHER PERSON EMPLOYED BY A SCHOOL
5 DISTRICT OR CHARTER SCHOOL MAY NOT SUBJECT A PUPIL TO CORPORAL PUNISHMENT.
6 THE PROHIBITION ON CORPORAL PUNISHMENT DOES NOT PREVENT THE USE OF
7 RESTRAINT OR SECLUSION TECHNIQUES THAT COMPLY WITH SECTION 15-105. IN
8 DETERMINING WHETHER A PERSON WAS COMPLYING WITH A RESTRAINT OR SECLUSION
9 TECHNIQUE, CONSIDERATION SHALL BE GIVEN TO REASONABLE JUDGMENTS THAT WERE
10 MADE AT THE TIME OF THE EVENT BY A TEACHER, PRINCIPAL OR OTHER PERSON
11 EMPLOYED BY THE SCHOOL DISTRICT OR CHARTER SCHOOL.

12 B. FOR THE PURPOSES OF THIS SECTION, "CORPORAL PUNISHMENT":

13 1. MEANS INFILCTING, OR CAUSING THE INFILCTION OF, PHYSICAL PAIN ON
14 A PUPIL AS A MEANS OF DISCIPLINE.

15 2. DOES NOT INCLUDE PHYSICAL PAIN, INJURY OR DISCOMFORT CAUSED BY
16 USING INCIDENTAL, MINOR OR REASONABLE PHYSICAL CONTACT OR OTHER ACTIONS
17 DESIGNED TO MAINTAIN ORDER, CONTROL AND SAFETY IN THE SCHOOL OR CLASSROOM
18 SETTING.

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

21 15-843. Pupil disciplinary proceedings: definition

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

27 B. The governing board of any school district, in consultation with
28 the teachers and parents of the school district, shall prescribe rules for
29 the discipline, suspension and expulsion of pupils. The rules shall be
30 consistent with the constitutional rights of pupils and shall include at
31 least the following:

32 1. Penalties for excessive pupil absenteeism pursuant to section
33 15-803, including failure in a subject, failure to pass a grade,
34 suspension or expulsion.

35 ~~2. Procedures for using corporal punishment if allowed by the
36 governing board.~~

37 ~~3.~~ 2. Procedures for the reasonable use of physical force by
38 certificated or classified personnel in self-defense, defense of others
39 and defense of property.

40 ~~4.~~ 3. Procedures for dealing with pupils who have committed or who
41 are believed to have committed a crime.

42 ~~5.~~ 4. A notice and hearing procedure for cases concerning the
43 suspension of a pupil for more than ten days.

44 ~~6.~~ 5. Procedures and conditions for readmitting a pupil who has
45 been expelled or suspended for more than ten days.

1 ~~7.~~ 6. Procedures to appeal to the governing board the suspension
2 of a pupil for more than ten days, if the decision to suspend the pupil
3 was not made by the governing board.

4 ~~8.~~ 7. Procedures to appeal the recommendation of the hearing
5 officer or officers designated by the board as provided in subsection F of
6 this section at the time the board considers the recommendation.

7 ~~9.~~ 8. Disciplinary policies for confining pupils **WHO ARE** left
8 alone in an enclosed space. These policies shall include the following:

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

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

19 ~~10.~~ 9. Procedures that require the school district to annually
20 report to the department of education in a manner prescribed by the
21 department the number of suspensions and expulsions that involve the
22 possession, use or sale of an illegal substance under title 13, chapter 34
23 and the type of illegal substance involved in each suspension or
24 expulsion. The department of education shall compile this information and
25 annually post the information on its website. The information shall
26 comply with the family educational rights and privacy act of 1974
27 (P.L. 93-380; 88 Stat. ~~57~~ **571**; 20 United States Code section 1232g), shall
28 not include personally identifiable information and shall show the number
29 of suspensions and expulsions associated with each illegal substance
30 aggregated statewide and by county.

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

36 D. The governing board shall:

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

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

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

43 4. Delegate to the principal the authority to remove a disruptive
44 pupil from the classroom.

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

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

7 1. Be notified of the intended action.

8 2. Either:

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

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

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

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

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

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

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

1 I. In schools employing a superintendent or a principal, the
2 authority to suspend a pupil from school is vested in the superintendent,
3 principal or other school officials granted this power by the governing
4 board of the school district.

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

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

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

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

14 (a) Involves the possession of a dangerous weapon without
15 authorization from the school.

16 (b) Involves the possession, use or sale of a dangerous drug as
17 defined in section 13-3401 or a narcotic drug as defined in section
18 13-3401 or a violation of section 13-3411.

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

20 (d) The pupil's behavior is determined by the school district
21 governing board or charter school governing body to qualify as aggravating
22 circumstances and **that** all of the following apply:

23 (i) The pupil is engaged in persistent behavior that has been
24 documented by the school and that prevents other pupils from learning or
25 prevents the teacher from maintaining control of the classroom
26 environment.

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

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

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

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

41 4. Before suspending or expelling the pupil, the school district or
42 charter school considers and, if feasible while maintaining the health and
43 safety of others, in consultation with the pupil's parent or guardian to
44 the extent possible, employs alternative behavioral and disciplinary
45 interventions that are available to the school district or charter school,

1 that are appropriate to the circumstances and that are considerate of
2 health and safety. The school district or charter school shall document
3 the alternative behavioral and disciplinary interventions it considers and
4 employs.

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

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

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

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

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

32 N. The principal of each school shall ensure that a copy of all
33 rules pertaining to discipline, suspension and expulsion of pupils is
34 distributed to the parents of each pupil at the time the pupil is enrolled
35 in **THE** school.

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

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

1 Q. For the purposes of this section, "aggravating circumstances"
2 means the pupil is engaged in persistent behavior that:
3 1. Has been documented by the school.
4 2. Prevents other students from learning or prevents the teacher
5 from maintaining control of the classroom environment.
6 3. Is unresponsive to targeted interventions as documented through
7 an established intervention process.