HB 2218

Introduced by
Representatives Terech: Gillette, Gutierrez, Hendrix, Marshall, Pawlik, Schwiebert; Senators Bennett, Carroll, Kavanagh, Marsh, Shope, Wadsack

AN ACT

AMENDING TITLE 15, CHAPTER 1, ARTICLE 8, ARIZONA REVISED STATUTES, BY ADDING SECTION 15-186.02; AMENDING SECTION 15-843, ARIZONA REVISED STATUTES; RELATING TO THE SUSPENSION AND EXPULSION OF PUPILS.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Title 15, chapter 1, article 8, Arizona Revised Statutes, is amended by adding section 15-186.02, to read:

15-186.02. Student discipline; unexcused attendance

Any penalty imposed by a charter school for a student's unexcused absence or absences may not include suspension.

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

15-843. Student disciplinary proceedings; definition

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

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

1. Penalties for excessive pupil student absenteeism pursuant to section 15-803, including failure in a subject, failure to pass a grade, suspension or expulsion. Penalties adopted pursuant to this paragraph may not include suspension.

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

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

4. Procedures for dealing with pupil students who have committed or who are believed to have committed a crime.

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

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

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

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

9. Disciplinary policies for confining pupil students who are left alone in an enclosed space. These policies shall include the following:

(a) A process for prior written parental notification that confinement may be used for disciplinary purposes and that is included in the pupil's enrollment packet or admission form.
(b) A process for prior written parental consent before confinement is allowed for any pupil student in the school district. The policies shall provide for an exemption to prior written parental consent if a school principal or teacher determines that the pupil student poses imminent physical harm to self or others. The school principal or teacher shall make reasonable attempts to notify the pupil student's parent or guardian in writing by the end of the same day that confinement was used.

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

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

D. The governing board shall:
1. Support and assist teachers in implementing and enforcing the rules prescribed pursuant to subsection B of this section.
2. Develop procedures allowing teachers and principals to recommend the suspension or expulsion of pupil students.
3. Develop procedures allowing teachers and principals to temporarily remove disruptive pupil students from a class.
4. Delegate to the principal the authority to remove a disruptive pupil student from the classroom.

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

F. In all actions concerning the expulsion of a pupil student, the governing board of a school district shall:
1. Be notified of the intended action.
2. Either:
   (a) Decide, in executive session, whether to hold a hearing or to designate one or more hearing officers to hold a hearing to hear the evidence, prepare a record and bring a recommendation to the board for action and whether the hearing shall be held in executive session.
(b) Provide by policy or vote at its annual organizational meeting that all hearings concerning the expulsion of a STUDENT conducted pursuant to this section will be conducted before a hearing officer selected from a list of hearing officers approved by the governing board.

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

G. If a parent or guardian or an emancipated STUDENT who is subject to expulsion disagrees that the hearing should be held in executive session, the hearing shall be held in an open meeting unless:
1. If only one STUDENT is subject to expulsion and disagreement exists between that STUDENT's parents or guardians, the governing board, after consultations with the STUDENT's parents or guardians or the emancipated STUDENT, shall decide in executive session whether the hearing will be in executive session.
2. If more than one STUDENT is subject to expulsion and disagreement exists between the parents or guardians of different STUDENTS, separate hearings shall be held subject to this section.

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

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

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

K. Except as provided in subsection L of this section, a school district or charter school may suspend or expel a STUDENT who is enrolled in a kindergarten program, first grade, second grade, third grade or fourth grade only if all of the following apply:
1. The STUDENT is seven years of age or older.
2. The STUDENT engaged in conduct on school grounds that meets AND AT LEAST one of the following criteria APPLIES:
(a) **THE CONDUCT** involves the possession of a dangerous weapon without authorization from the school.

(b) **THE CONDUCT** involves the possession, use or sale of a dangerous drug as defined in section 13-3401 or a narcotic drug as defined in section 13-3401 or a violation of section 13-3411.

(c) **THE CONDUCT** immediately endangers the health or safety of others.

(d) The *pupils' STUDENT'S* behavior is determined by the school district governing board or charter school governing body to qualify as aggravating circumstances and all of the following apply:

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

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

(iii) The *pupil's STUDENT'S* parent or guardian was notified and consulted about the ongoing behavior.

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

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

4. Before suspending or expelling the *pupil* STUDENT, the school district or charter school considers and, if feasible while maintaining the health and safety of others, in consultation with the *pupil's STUDENT'S* parent or guardian to the extent possible, employs alternative behavioral and disciplinary interventions that are available to the school district or charter school, that are appropriate to the circumstances and that are considerate of health and safety. The school district or charter school shall document the alternative behavioral and disciplinary interventions it considers and employs.

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

(a) A readmission procedure for *pupils STUDENTS* who are in kindergarten programs, first grade, second grade, third grade and fourth grade and who have served at least five school days of a suspension from the school that exceeds ten school days to be considered for readmission on appeal of the *pupil's STUDENT'S* parent or guardian.
(b) A readmission procedure for pupils STUDENTS who are in kindergarten programs, first grade, second grade, third grade and fourth grade and who are expelled from or subject to alternative reassignment at the school to be considered for readmission on appeal of the pupil's STUDENT'S parent or guardian at least twenty school days after the effective date of the expulsion or alternative reassignment.

L. Subsection K of this section does not apply if either:

1. Expulsion is required pursuant to section 15-841, subsection G.

2. The school district or charter school is suspending the pupil STUDENT for two or fewer days and the aggregate suspensions for the pupil STUDENT do not exceed ten days within the school year.

M. All cases of suspension shall be for good cause, MAY NOT BE SOLELY BASED ON A STUDENT'S ABSENTEEISM and shall be reported within five days to the governing board by the superintendent or the person imposing the suspension.

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

O. The principal of each school shall ensure that a copy of all rules pertaining to the discipline, suspension and expulsion of pupils STUDENTS is distributed to the parents of each pupil STUDENT at the time the pupil STUDENT is enrolled in the school.

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

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

R. For the purposes of this section, "aggravating circumstances" means the pupil STUDENT is engaged in persistent behavior that:

1. Has been documented by the school.

2. Prevents other students from learning or prevents the teacher from maintaining control of the classroom environment.

3. Is unresponsive to targeted interventions as documented through an established intervention process.