

REFERENCE TITLE: suspension; requirements; K-4 students

State of Arizona
House of Representatives
Fifty-sixth Legislature
First Regular Session
2023

HB 2460

Introduced by
Representatives Pingerelli: Pawlik

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; definition

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 D. The governing board shall:

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

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

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

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

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

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

34 1. Be notified of the intended action.

35 2. Either:

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

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

44 3. Give written notice, at least five working days before the hearing
45 by the governing board or the hearing officer or officers designated by the

1 governing board, to all pupils subject to expulsion and their parents or
2 guardians of the date, time and place of the hearing. If the governing board
3 decides that the hearing is to be held in executive session, the written
4 notice shall include a statement of the right of the parents or guardians or
5 an emancipated pupil who is subject to expulsion to object to the governing
6 board's decision to have the hearing held in executive session. Objections
7 shall be made in writing to the governing board.

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

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

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

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

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

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

30 K. ~~Unless required by section 15-841, subsection 6~~ EXCEPT AS PROVIDED
31 IN SUBSECTION L OF THIS SECTION, a school district or charter school may
32 suspend or expel a pupil who is enrolled in a kindergarten program, first
33 grade, second grade, third grade or fourth grade only if all of the following
34 apply:

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

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

38 (a) Involves the possession of a dangerous weapon without
39 authorization from the school.

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

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

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

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

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

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

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

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

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

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

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

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

42 L. SUBSECTION K OF THIS SECTION DOES NOT APPLY IF EITHER:

43 1. EXPULSION IS REQUIRED PURSUANT TO SECTION 15-841, SUBSECTION G.

44 2. THE SUSPENSION DOES NOT EXCEED TWO DAYS.

1 ~~L.~~ M. 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 the
3 person imposing the suspension.

4 ~~M.~~ N. Rules pertaining to the discipline, suspension and expulsion of
5 pupils shall not be based on race, color, religion, sex, national origin or
6 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.~~ O. The principal of each school shall ensure that a copy of all
16 rules pertaining to THE discipline, suspension and expulsion of pupils is
17 distributed to the parents of each pupil at the time the pupil is enrolled in
18 THE school.

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

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

- 29 1. Has been documented by the school.
30 2. Prevents other students from learning or prevents the teacher from
31 maintaining control of the classroom environment.
32 3. Is unresponsive to targeted interventions as documented through an
33 established intervention process.