

REFERENCE TITLE: public schools; student discipline; absenteeism

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

HB 2748

Introduced by
Representatives Terech: Carbone, Gutierrez, Kolodin, Pawlik, Peña,
Schwiebert, Senators Kavanagh, Marsh

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)

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

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

4 15-186.02. Student discipline; absenteeism

5 ANY PENALTY IMPOSED BY A CHARTER SCHOOL FOR A STUDENT'S UNEXCUSED
6 ABSENCE OR ABSENCES MAY NOT INCLUDE SUSPENSION.

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

9 15-843. Student disciplinary proceedings; definition

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

15 B. The governing board of any school district, in consultation with
16 the teachers and parents of the school district, shall prescribe rules for
17 the discipline, suspension and expulsion of ~~pupit~~s STUDENTS. The rules
18 shall be consistent with the constitutional rights of ~~pupit~~s STUDENTS and
19 shall include at least the following:

20 1. Penalties for excessive ~~pupit~~ STUDENT absenteeism pursuant to
21 section 15-803, including failure in a subject, failure to pass a
22 grade, ~~suspension~~ or expulsion. PENALTIES ADOPTED PURSUANT TO THIS
23 PARAGRAPH MAY NOT INCLUDE SUSPENSION.

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

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

29 4. Procedures for dealing with ~~pupit~~s STUDENTS who have committed
30 or who are believed to have committed a crime.

31 5. A notice and hearing procedure for cases concerning the
32 suspension of a ~~pupit~~ STUDENT for more than ten days.

33 6. Procedures and conditions for readmitting a ~~pupit~~ STUDENT who
34 has been expelled or suspended for more than ten days.

35 7. Procedures to appeal to the governing board the suspension of a
36 ~~pupit~~ STUDENT for more than ten days, if the decision to suspend the ~~pupit~~
37 STUDENT was not made by the governing board.

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

41 9. Disciplinary policies for confining ~~pupit~~s STUDENTS WHO ARE left
42 alone in an enclosed space. These policies shall include the following:

43 (a) A process for prior written parental notification that
44 confinement may be used for disciplinary purposes ~~and~~ that is included in
45 the ~~pupit~~'s STUDENT'S enrollment packet or admission form.

1 (b) A process for prior written parental consent before confinement
2 is allowed for any ~~pupit~~ STUDENT in the school district. The policies
3 shall provide for an exemption to prior written parental consent if a
4 school principal or teacher determines that the ~~pupit~~ STUDENT poses
5 imminent physical harm to self or others. The school principal or teacher
6 shall make reasonable attempts to notify the ~~pupit's~~ STUDENT'S parent or
7 guardian in writing by the end of the same day that confinement was used.

8 10. Procedures that require the school district to annually report
9 to the department of education in a manner prescribed by the department
10 the number of suspensions and expulsions that involve the possession, use
11 or sale of an illegal substance under title 13, chapter 34 and the type of
12 illegal substance involved in each suspension or expulsion. The
13 department of education shall compile this information and annually post
14 the information on its website. The information shall comply with the
15 family educational rights and privacy act of 1974 (P.L. 93-380; 88 Stat.
16 ~~57~~ 571; 20 United States Code section 1232g), shall not include personally
17 identifiable information and shall show the number of suspensions and
18 expulsions associated with each illegal substance aggregated statewide and
19 by county.

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

25 D. The governing board shall:

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

28 2. Develop procedures allowing teachers and principals to recommend
29 the suspension or expulsion of ~~pupit's~~ STUDENTS.

30 3. Develop procedures allowing teachers and principals to
31 temporarily remove disruptive ~~pupit's~~ STUDENTS from a class.

32 4. Delegate to the principal the authority to remove a disruptive
33 ~~pupit~~ STUDENT from the classroom.

34 E. If a ~~pupit~~ STUDENT withdraws from school after receiving notice
35 of possible action concerning discipline, expulsion or suspension, the
36 governing board may continue with the action after the withdrawal and may
37 record the results of such action in the ~~pupit's~~ STUDENT'S permanent file.

38 F. In all actions concerning the expulsion of a ~~pupit~~ STUDENT, the
39 governing board of a school district shall:

40 1. Be notified of the intended action.

41 2. Either:

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

1 (b) Provide by policy or vote at its annual organizational meeting
2 that all hearings concerning the expulsion of a ~~pupit~~ STUDENT conducted
3 pursuant to this section will be conducted before a hearing officer
4 selected from a list of hearing officers approved by the governing board.

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

15 G. If a parent or guardian or an emancipated ~~pupit~~ STUDENT who is
16 subject to expulsion disagrees that the hearing should be held in
17 executive session, the hearing shall be held in an open meeting unless:

18 1. If only one ~~pupit~~ STUDENT is subject to expulsion and
19 disagreement exists between that ~~pupit's~~ STUDENT'S parents or guardians,
20 the governing board, after consultations with the ~~pupit's~~ STUDENT'S
21 parents or guardians or the emancipated ~~pupit~~ STUDENT, shall decide in
22 executive session whether the hearing will be in executive session.

23 2. If more than one ~~pupit~~ STUDENT is subject to expulsion and
24 disagreement exists between the parents or guardians of different ~~pupits~~
25 STUDENTS, separate hearings shall be held subject to this section.

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

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

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

38 K. Unless required by section 15-841, subsection G, a school
39 district or charter school may suspend or expel a ~~pupit~~ STUDENT who is
40 enrolled in a kindergarten program, first grade, second grade, third grade
41 or fourth grade only if all of the following apply:

- 42 1. The ~~pupit~~ STUDENT is seven years of age or older.
- 43 2. The ~~pupit~~ STUDENT engaged in conduct on school grounds that
44 meets one of the following criteria:

- 1 (a) Involves the possession of a dangerous weapon without
2 authorization from the school.
- 3 (b) Involves the possession, use or sale of a dangerous drug as
4 defined in section 13-3401 or a narcotic drug as defined in section
5 13-3401 or a violation of section 13-3411.
- 6 (c) Immediately endangers the health or safety of others.
- 7 (d) The ~~pupil's~~ STUDENT'S behavior is determined by the school
8 district governing board or charter school governing body to qualify as
9 aggravating circumstances and ~~that~~ all of the following apply:
- 10 (i) The ~~pupil~~ STUDENT is engaged in persistent behavior that has
11 been documented by the school and that prevents other ~~pupils~~ STUDENTS from
12 learning or prevents the teacher from maintaining control of the classroom
13 environment.
- 14 (ii) The ~~pupil's~~ STUDENT'S ongoing behavior is unresponsive to
15 targeted interventions as documented through an established intervention
16 process that includes consultation with a school counselor, school
17 psychologist or other mental health professional or social worker if
18 available within the school district or charter school or through a
19 state-sponsored program.
- 20 (iii) The ~~pupil's~~ STUDENT'S parent or guardian was notified and
21 consulted about the ongoing behavior.
- 22 (iv) Before a long-term suspension or expulsion, the school
23 provides the ~~pupil~~ STUDENT with a disability screening and the screening
24 finds that the behavioral issues were not the result of a disability.
- 25 3. Failing to remove the ~~pupil~~ STUDENT from the school building
26 would create a safety threat that cannot otherwise reasonably be addressed
27 or qualifies as aggravating circumstances as specified in paragraph 2 of
28 this subsection.
- 29 4. Before suspending or expelling the ~~pupil~~ STUDENT, the school
30 district or charter school considers and, if feasible while maintaining
31 the health and safety of others, in consultation with the ~~pupil's~~
32 STUDENT'S parent or guardian to the extent possible, employs alternative
33 behavioral and disciplinary interventions that are available to the school
34 district or charter school, that are appropriate to the circumstances and
35 that are considerate of health and safety. The school district or charter
36 school shall document the alternative behavioral and disciplinary
37 interventions it considers and employs.
- 38 5. The school district or charter school, by policy, provides for
39 both:
- 40 (a) A readmission procedure for ~~pupils~~ STUDENTS who are in
41 kindergarten programs, first grade, second grade, third grade and fourth
42 grade and who have served at least five school days of a suspension from
43 the school that exceeds ten school days to be considered for readmission
44 on appeal of the ~~pupil's~~ STUDENT'S parent or guardian.

1 (b) A readmission procedure for ~~pupils~~ STUDENTS who are in
2 kindergarten programs, first grade, second grade, third grade and fourth
3 grade and who are expelled from or subject to alternative reassignment at
4 the school to be considered for readmission on appeal of the ~~pupils~~
5 STUDENT'S parent or guardian at least twenty school days after the
6 effective date of the expulsion or alternative reassignment.

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

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

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

26 O. The principal of each school shall ensure that all rules
27 pertaining to the discipline, suspension and expulsion of ~~pupils~~ STUDENT
28 are communicated to students at the beginning of each school year, and to
29 transfer students at the time of their enrollment in the school.

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

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

- 36 1. Has been documented by the school.
- 37 2. Prevents other students from learning or prevents the teacher
38 from maintaining control of the classroom environment.
- 39 3. Is unresponsive to targeted interventions as documented through
40 an established intervention process.