

REFERENCE TITLE: **student discipline; nonattendance; suspension; requirements**

State of Arizona
Senate
Fifty-sixth Legislature
First Regular Session
2023

SB 1044

Introduced by
Senator Kavanagh

AN ACT

AMENDING SECTION 15-843, ARIZONA REVISED STATUTES; RELATING TO 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
6 pupil is not subject to title 38, chapter 3, article 3.1, except that the
7 governing board of a school district shall post regular notice and shall
8 take minutes of any hearing held by the governing board concerning the
9 discipline, 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,
17 suspension 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
21 certificated or classified personnel in self-defense, defense of others
22 and defense of 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
26 suspension 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
33 or officers designated by the board as provided in subsection F of this
34 section at the time the board considers the recommendation.

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

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

40 (b) A process for prior written parental consent before confinement
41 is allowed for any pupil in the school district. The policies shall
42 provide for an exemption to prior written parental consent if a school
43 principal or teacher determines that the pupil poses imminent physical
44 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. IF A PUPIL IS SUSPENDED FOR NONATTENDANCE, INCLUDING BEING
5 TRUANT AS DEFINED IN SECTION 15-803 OR HAVING AN UNEXCUSED ABSENCE FOR
6 LESS THAN ONE CLASS PERIOD DURING THE DAY, THE SUPERINTENDENT OR THE
7 PERSON IMPOSING THE SUSPENSION MUST TRANSFER THE SUSPENDED PUPIL TO A
8 LOCATION ON SCHOOL PREMISES THAT IS ISOLATED FROM OTHER PUPILS AND PROVIDE
9 THE SUSPENDED PUPIL WITH ACADEMIC WORK DURING THE SUSPENSION PERIOD.
10 SUSPENSION FOR NONATTENDANCE PURSUANT TO THIS SUBSECTION MAY BE PROVIDED
11 DURING OR AFTER THE HOURS THAT SCHOOL IS IN SESSION.

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

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

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

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

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

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