

1 SB79  
2 215575-1  
3 By Senator Smitherman  
4 RFD: Education Policy  
5 First Read: 13-JAN-22

SYNOPSIS: Under existing law, each local board of education is required to annually adopt and distribute a code of student conduct that details specific grounds and procedures for addressing student disciplinary actions.

This bill would provide a uniform statewide system of procedural due process protections relating to the suspension and expulsion of public school students for violating the student code of conduct or state law.

This bill would also provide for the adoption of any necessary rules to implement this act by the State Board of Education.

A BILL  
TO BE ENTITLED  
AN ACT

Relating to K-12 public education; to amend Section 16-1-14, Code of Alabama 1975; to provide legislative

1 findings; to provide a uniform system of procedural due  
2 process protections for students facing suspension or  
3 expulsion for violating the student code of conduct or state  
4 law; and to require the State Board of Education to adopt  
5 rules to implement this act.

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

7 Section 1. The Legislature finds and declares all of  
8 the following:

9 (1) Alabama schools rely heavily on suspensions and  
10 expulsions to discipline children, and the out-of-school  
11 suspension rate in the state exceeds the national average.

12 (2) Removing students from the classroom is costly,  
13 ineffective, and increases the likelihood that Alabama youth  
14 will end up in the juvenile or adult justice system.

15 (3) Schools with high suspension and expulsion rates  
16 negatively impact the safety, well-being, and academic success  
17 of all students, not just those facing disciplinary action.

18 (4) Zero tolerance policies have not been shown to  
19 improve school climate or school safety and lead to higher  
20 rates of exclusionary disciplinary action.

21 (5) Absent statutory guidance, each local board of  
22 education in the state develops independent policies and  
23 procedures for students facing exclusionary discipline,  
24 resulting in disparate processes across the state and students  
25 being unfairly and mistakenly excluded from school without  
26 just cause.

1           (6) A fair and uniform statewide system of  
2 procedural due process protections is necessary for students  
3 facing exclusionary discipline.

4           Section 2. Section 16-1-14 of the Code of Alabama  
5 1975, is amended to read as follows:

6           "§16-1-14.

7           "(a) As used in this section, the following terms  
8 shall have the following meanings:

9           "(1) EXPULSION. The exclusion of a student from his  
10 or her regular school environment for more than 90, and less  
11 than 180, school days for disciplinary purposes.

12           "(2) LONG-TERM SUSPENSION. The exclusion of a  
13 student from his or her regular school environment for more  
14 than 10, and less than 90, school days for disciplinary  
15 purposes.

16           "(b) Each local board of education ~~Any city, county,~~  
17 ~~or other local public school board shall,~~ consistent with  
18 Section 16-28-12, ~~prescribe~~ shall adopt rules ~~and regulations~~  
19 with respect to behavior and discipline of ~~pupils~~ students  
20 enrolled in the schools under its jurisdiction and, in order  
21 to enforce ~~such the~~ rules ~~and regulations,~~ may remove,  
22 isolate, or separate ~~pupils~~ students who create disciplinary  
23 problems in any classroom or other school activity and whose  
24 presence in the class may be detrimental to the best interest  
25 and welfare of the ~~pupils~~ students of ~~such the~~ class as a  
26 whole. Any rules ~~and regulations~~ adopted pursuant to this  
27 section shall be approved by the State Board of Education.

1           "(c) Any ~~such~~ removal, isolation, or separation  
2 authorized under this section may not deprive ~~such pupils~~ a  
3 student of ~~their~~ his or her full right to an equal and  
4 adequate education.

5           "(d) (1) A student in pre-K through fifth grade may  
6 not be suspended or expelled from a public school, unless the  
7 behavior of the student endangers the physical safety of other  
8 students or school personnel.

9           "(2) A student in any grade may not be suspended or  
10 expelled from a public school for truancy or tardiness  
11 violations of the code of student conduct or state law.

12           "(e) Following an alleged student disciplinary  
13 incident or infraction, the principal, or his or her designee,  
14 shall consider all of the following factors before  
15 recommending or initiating disciplinary action against a  
16 student:

17           "(1) The age of the student.

18           "(2) The disciplinary history of the student.

19           "(3) The seriousness of the violation or behavior.

20           "(4) Whether a lesser intervention could  
21 appropriately address the behavior of the student.

22           "(f) Following an alleged violation of the code of  
23 student conduct or state law that results in a recommendation  
24 for long-term suspension or expulsion of a student, the local  
25 board of education shall ensure, at a minimum, that all of the  
26 following procedures are followed:

1           "(1) The student shall be afforded an opportunity  
2 for a disciplinary hearing before a local board of education  
3 or its neutral designee to determine whether the alleged  
4 violation of the code of conduct or state law has occurred.

5           "(2) The student shall receive reasonable written  
6 notice of the disciplinary hearing, delivered to him or her  
7 personally or by mail. The notice shall be given to all  
8 parties and to the parent or guardian of each student  
9 involved, and shall include all of the following:

10           "a. A statement of the time, place, and nature of  
11 the hearing.

12           "b. A short and plain statement detailing the  
13 alleged conduct and the code of student conduct provision or  
14 state law allegedly violated.

15           "c. The names of any witnesses who may participate  
16 in the hearing.

17           "d. A statement outlining the rights of the student  
18 at the hearing.

19           "(3) The disciplinary hearing shall occur within 10  
20 school days after the initial suspension from school.

21           "(4) The student may be represented at the hearing  
22 by legal counsel or another advocate of the student's choice,  
23 at the student's expense.

24           "(5) The student, parent or guardian, and the  
25 representative of the student, at least five days before the  
26 hearing, may review any audio or video recording of the  
27 incident and, consistent with federal and state student

1 records laws and regulations, any records, documents, or other  
2 information that may be presented as evidence at the hearing,  
3 including written statements made by witnesses related to the  
4 alleged incident leading to the suspension or expulsion.

5 "(6) Representatives from the school seeking the  
6 proposed disciplinary action shall offer substantial evidence  
7 at the hearing that the student violated the code of student  
8 conduct or state law, including evidence of the student's  
9 intent at the time of the incident underlying the alleged  
10 violation.

11 "(7) The student, parent or guardian, or the  
12 representative of the student may present a defense, question  
13 adverse witnesses, and offer evidence, including oral  
14 testimony from supporting witnesses, written statements or  
15 other documentary evidence, and audio or video recordings at  
16 the hearing.

17 "(8) Each party to the hearing, upon request, shall  
18 receive an electronic or written record of the hearing from  
19 the local board of education.

20 "(9) The student and parent or guardian shall  
21 receive a written decision from the local board of education  
22 or its neutral designee within five school days after the  
23 hearing. The written decision shall include, but not be  
24 limited to, all of the following information:

25 "a. The basis for the decision, including a  
26 reference to the code of student conduct provision or state  
27 law that the student is accused of violating, and the evidence

1 relied on by the local board of education or its neutral  
2 designee in reaching the decision.

3 "b. A statement detailing what information will be  
4 included in the official record of the student.

5 "c. A statement detailing the right of the student  
6 to appeal the decision pursuant to the code of student conduct  
7 of the local board of education and Section 12-15-115, and  
8 notice of the procedures necessary to file an appeal.

9 "(g) The State Board of Education shall adopt rules  
10 addressing:

11 "(1) The factors a local board of education or its  
12 neutral designee shall consider when determining whether  
13 long-term suspension or expulsion is an appropriate  
14 disciplinary measure commensurate with the disciplinary  
15 incident or infraction committed, except as otherwise provided  
16 in Sections 16-1-24.1 and 16-1-24.3. These factors shall  
17 include the intent of the student, the culpability of the  
18 student, any relevant extenuating circumstances, and the  
19 impact of the alleged behavior on the school environment.

20 "(2) Any other issue the board deems relevant and  
21 necessary to implement this section.

22 "(h) Nothing in this section shall be construed to  
23 infringe on any right provided to students pursuant to the  
24 federal Individuals with Disabilities Education Act, Section  
25 504 of the Rehabilitation Act of 1973, or the Americans with  
26 Disabilities Act of 1990."



1                   Section 3. This act shall become effective on the  
2 first day of the third month following its passage and  
3 approval by the Governor, or its otherwise becoming law.