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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 1761

02/27/2019 Authored by Her The bill was read for the first time and referred to the Committee on Education Policy

1.1 A bill for an act
1.2 relating to education; providing for nonexclusionary pupil disciplinary policies
1.3 and practices; requiring a report; amending Minnesota Statutes 2018, sections
1.4 121A.41, by adding a subdivision; 121A.42; 121A.45; 121A.46, subdivisions 2,
1.5 3, by adding subdivisions; 121A.47, subdivision 2; 121A.53, subdivision 1;
1.6 121A.55; 121A.61; 121A.67, by adding a subdivision.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 Section 1. Minnesota Statutes 2018, section 121A.41, is amended by adding a subdivision
1.9 to read:

1.10 Subd. 12. Nonexclusionary disciplinary policies and practices; alternatives to pupil
1.11 removal and dismissal. "Nonexclusionary disciplinary policies and practices" means
1.12 policies and practices that are alternatives to removing a pupil from class or dismissing a
1.13 pupil from school, including positive behavioral interventions and supports and alternative
1.14 education services, that require school officials to intervene in, redirect, and support a pupil's
1.15 behavior before removing a pupil from class or beginning dismissal proceedings.
1.16 Nonexclusionary disciplinary policies and practices include but are not limited to the policies
1.17 and practices under sections 121A.031, subdivision 4, paragraph (a), clause (1); 121A.575,
1.18 clauses (1) and (2); and 121A.61, subdivision 3, paragraph (q).

1.19 EFFECTIVE DATE. This section is effective for the 2019-2020 school year and later.

2.1 Sec. 2. Minnesota Statutes 2018, section 121A.42, is amended to read:

2.2 **121A.42 POLICY.**

2.3 (a) No public school shall deny due process or equal protection of the law to any public  
 2.4 school pupil involved in a dismissal proceeding which may result in suspension, exclusion,  
 2.5 or expulsion.

2.6 (b) School officials are encouraged to use nonexclusionary disciplinary policies and  
 2.7 practices before beginning dismissal proceedings.

2.8 **EFFECTIVE DATE.** This section is effective for the 2019-2020 school year and later.

2.9 Sec. 3. Minnesota Statutes 2018, section 121A.45, is amended to read:

2.10 **121A.45 GROUNDS FOR DISMISSAL.**

2.11 Subdivision 1. **Provision of alternative programs.** No school shall dismiss any pupil  
 2.12 without attempting to provide alternative educational services or use nonexclusionary  
 2.13 disciplinary policies and practices before dismissal proceedings, except where it appears  
 2.14 that the pupil will create an immediate and substantial danger to self or to surrounding  
 2.15 persons or property.

2.16 Subd. 1a. **Definitions.** For purposes of this chapter, "willful" or "willfully" means  
 2.17 deliberate, intentional, and knowing.

2.18 Subd. 2. **Grounds for dismissal.** A pupil may be dismissed ~~on any of the following~~  
 2.19 ~~grounds~~ for:

2.20 ~~(a) (1) willful violation of any reasonable school board regulation. Such regulation must~~  
 2.21 ~~be~~ that is specific and sufficiently clear and definite to provide notice to pupils that they  
 2.22 must conform their conduct to its requirements;

2.23 ~~(b) (2) willful conduct that significantly disrupts the rights of others to an education, or~~  
 2.24 ~~the ability of school personnel to perform their duties, or school sponsored extracurricular~~  
 2.25 ~~activities; or~~

2.26 ~~(c) (3) willful conduct that endangers the pupil or other pupils, or surrounding persons,~~  
 2.27 ~~including school district employees, or property of the school.~~

2.28 ~~Subd. 3. **Parent notification and meeting.** If a pupil's total days of removal from school~~  
 2.29 ~~exceeds ten cumulative days in a school year, the school district shall make reasonable~~  
 2.30 ~~attempts to convene a meeting with the pupil and the pupil's parent or guardian before~~  
 2.31 ~~subsequently removing the pupil from school and, with the permission of the parent or~~

3.1 ~~guardian, arrange for a mental health screening for the pupil. The district is not required to~~  
 3.2 ~~pay for the mental health screening. The purpose of this meeting is to attempt to determine~~  
 3.3 ~~the pupil's need for assessment or other services or whether the parent or guardian should~~  
 3.4 ~~have the pupil assessed or diagnosed to determine whether the pupil needs treatment for a~~  
 3.5 ~~mental health disorder.~~

3.6 EFFECTIVE DATE. This section is effective for the 2019-2020 school year and later.

3.7 Sec. 4. Minnesota Statutes 2018, section 121A.46, subdivision 2, is amended to read:

3.8 Subd. 2. **Administrator notifies pupil of grounds for suspension.** At the informal  
 3.9 administrative conference, a school administrator shall notify the pupil of the grounds for  
 3.10 the suspension, ~~provide an explanation of~~ and explain the evidence the authorities have;  
 3.11 ~~and.~~ The pupil may present the pupil's version of the facts and ask questions but is not  
 3.12 required to do so. A school administrator must inform the pupil that the pupil may is not  
 3.13 required to present the pupil's version of the facts.

3.14 EFFECTIVE DATE. This section is effective for the 2019-2020 school year and later.

3.15 Sec. 5. Minnesota Statutes 2018, section 121A.46, subdivision 3, is amended to read:

3.16 Subd. 3. **Written notice of grounds for suspension.** A written notice ~~containing~~ of  
 3.17 grounds for suspension must be personally served upon the pupil at or before the time the  
 3.18 suspension is to take effect and served upon the pupil's parent or guardian electronically or  
 3.19 by mail within 48 hours of the conference. A written notice required under this section must  
 3.20 contain:

3.21 (1) the grounds for suspension;

3.22 (2) a brief statement of the facts;

3.23 (3) a description of the testimony;

3.24 (4) documents indicating the nonexclusionary disciplinary policies and practices initially  
 3.25 used with the pupil, if applicable;

3.26 (5) the length of the suspension;

3.27 (6) a readmission plan; that includes the pupil's date of return to school;

3.28 (7) a request for a meeting with the pupil's parent or guardian consistent with subdivision  
 3.29 3a; and

4.1 ~~(8) a copy of sections 121A.40 to 121A.56, shall be personally served upon the pupil at~~  
 4.2 ~~or before the time the suspension is to take effect, and upon the pupil's parent or guardian~~  
 4.3 ~~by mail within 48 hours of the conference.~~

4.4 The district ~~shall~~ must make reasonable efforts to notify the parents of the suspension by  
 4.5 telephone or electronically as soon as possible following the suspension. In the event a pupil  
 4.6 is suspended without an informal administrative conference on the grounds that the pupil  
 4.7 will create an immediate and substantial danger to surrounding persons or property, the  
 4.8 written notice ~~shall~~ must be served upon the pupil and the pupil's parent or guardian within  
 4.9 48 hours of the suspension. Service by mail is complete upon mailing.

4.10 **EFFECTIVE DATE.** This section is effective for the 2019-2020 school year and later.

4.11 Sec. 6. Minnesota Statutes 2018, section 121A.46, is amended by adding a subdivision to  
 4.12 read:

4.13 **Subd. 3a. Parent notification and meeting; suspension; mental health screening.** (a)  
 4.14 After suspending a pupil from school, a school official must make reasonable attempts to  
 4.15 convene a meeting with the pupil and the pupil's parent or guardian within 30 calendar days  
 4.16 of the dismissal. The purpose of the meeting is to engage the pupil's parent or guardian in  
 4.17 developing a plan to help the pupil succeed in school by addressing the behavior that led  
 4.18 to the dismissal.

4.19 (b) If a pupil's total days of removal from school exceeds ten cumulative days in a school  
 4.20 year, the school district must make reasonable attempts to convene a meeting with the pupil  
 4.21 and the pupil's parent or guardian before subsequently removing the pupil from school and,  
 4.22 with the permission of the parent or guardian, arrange for a mental health screening for the  
 4.23 pupil. The district is not required to pay for the mental health screening. The purpose of  
 4.24 this meeting is to attempt to determine the pupil's need for assessment or other services or  
 4.25 whether the parent or guardian should have the pupil assessed or diagnosed to determine  
 4.26 whether the pupil needs treatment for a mental health disorder.

4.27 **EFFECTIVE DATE.** This section is effective for the 2019-2020 school year and later.

4.28 Sec. 7. Minnesota Statutes 2018, section 121A.46, is amended by adding a subdivision to  
 4.29 read:

4.30 **Subd. 5. Minimum education services.** School officials must give a suspended pupil  
 4.31 a reasonable opportunity to complete all school work assigned during the pupil's suspension  
 4.32 and to receive full credit for satisfactorily completing the assignments. The school principal

5.1 or other person having administrative control of the school building or program is encouraged  
 5.2 to designate a district or school employee as a liaison to work with the pupil's teachers to  
 5.3 allow the suspended pupil to (1) receive timely course materials and other information, and  
 5.4 (2) complete daily and weekly assignments and receive teachers' feedback.

5.5 **EFFECTIVE DATE.** This section is effective for the 2019-2020 school year and later.

5.6 Sec. 8. Minnesota Statutes 2018, section 121A.46, is amended by adding a subdivision to  
 5.7 read:

5.8 Subd. 6. **Complaint procedure.** A party to a suspension under this section may file a  
 5.9 signed, written complaint with the commissioner alleging that the requirements of sections  
 5.10 121A.40 to 121A.56 have not been met. Upon receiving a signed, written complaint, the  
 5.11 commissioner must conduct an independent investigation. The complainant must have an  
 5.12 opportunity to submit additional information to the commissioner, and the school board  
 5.13 shall have an opportunity to respond to the complaint. The commissioner must review all  
 5.14 relevant information and make an independent determination as to whether the school board  
 5.15 or school is violating or has violated a requirement of sections 121A.40 to 121A.56. Within  
 5.16 30 days of receiving the complaint, the commissioner must issue a written decision to the  
 5.17 complainant that addresses each allegation in the complaint and contains findings of fact  
 5.18 and conclusions. If the commissioner finds that the school board or school failed to meet  
 5.19 the requirements of sections 121A.40 to 121A.56, the commissioner shall order corrective  
 5.20 action that may include compensatory education for the pupil or training for school staff,  
 5.21 if appropriate. Complaints must allege a violation that occurred not more than 180 days  
 5.22 prior to the date that the complaint is received. The party filing the complaint must forward  
 5.23 a copy of the complaint to the school or school board.

5.24 **EFFECTIVE DATE.** This section is effective for the 2019-2020 school year and later.

5.25 Sec. 9. Minnesota Statutes 2018, section 121A.47, subdivision 2, is amended to read:

5.26 Subd. 2. **Written notice.** Written notice of intent to take action ~~shall~~ must:

5.27 ~~(a)~~ (1) be served upon the pupil and the pupil's parent or guardian personally or by mail;

5.28 ~~(b)~~ (2) contain a complete statement of the facts, a list of the witnesses and a description  
 5.29 of their testimony;

5.30 ~~(c)~~ (3) explain the grounds for expelling the pupil instead of imposing nonexclusionary  
 5.31 disciplinary policies and practices under section 121A.41, subdivision 12;

5.32 (4) state the date, time, and place of the hearing;

6.1 ~~(d)~~ (5) be accompanied by a copy of sections 121A.40 to 121A.56;

6.2 ~~(e)~~ (6) describe alternative educational services accorded the pupil in an attempt to avoid  
6.3 the exclusion or expulsion proceedings; and

6.4 ~~(f)~~ (7) inform the pupil and parent or guardian of the right to:

6.5 ~~(1)~~ (i) have a representative of the pupil's own choosing, including legal counsel, at the  
6.6 hearing. The district ~~shall~~ must advise the pupil's parent or guardian that free or low-cost  
6.7 legal assistance may be available and that a legal assistance resource list is available from  
6.8 the Department of Education and is posted on the department's website;

6.9 ~~(2)~~ (ii) examine the pupil's records before the hearing;

6.10 ~~(3)~~ (iii) present evidence; and

6.11 ~~(4)~~ (iv) confront and cross-examine witnesses.

6.12 **EFFECTIVE DATE.** This section is effective for the 2019-2020 school year and later.

6.13 Sec. 10. Minnesota Statutes 2018, section 121A.53, subdivision 1, is amended to read:

6.14 Subdivision 1. **Exclusions and expulsions; physical assaults.** Consistent with  
6.15 subdivision 2, the school board must ~~report through~~ use the department electronic reporting  
6.16 system to report to the commissioner each exclusion or expulsion ~~and,~~ each physical assault  
6.17 of a district employee by a ~~student~~ pupil, and each verbal or written agreement of a parent  
6.18 or guardian to withdraw a pupil from the school or district instead of having the pupil  
6.19 excluded or expelled within 30 days of the effective date of the dismissal action or assault  
6.20 ~~to the commissioner of education.~~ This report must ~~include a statement of alternative~~  
6.21 ~~educational services, or other sanction, intervention, or resolution in response to the assault~~  
6.22 ~~given the pupil and the reason for,~~ identify:

6.23 (1) the pupil's behavior leading to the discipline;

6.24 (2) the nonexclusionary disciplinary policies and practices used, if applicable;

6.25 (3) any attempts to provide the pupil with alternative education services before excluding  
6.26 or expelling the pupil;

6.27 (4) the effective date, ~~and~~ of the disciplinary action; and

6.28 (5) the duration of the exclusion or expulsion or other sanction, intervention, or resolution.

6.29 The report must also include the ~~student's~~ pupil's age, grade, gender, race, and special  
6.30 education status.

7.1 **EFFECTIVE DATE.** This section is effective for the 2019-2020 school year and later.

7.2 Sec. 11. Minnesota Statutes 2018, section 121A.55, is amended to read:

7.3 **121A.55 POLICIES TO BE ESTABLISHED.**

7.4 (a) The commissioner of education shall promulgate guidelines to assist each school  
7.5 board. Each school board shall establish uniform criteria for dismissal and adopt written  
7.6 policies and rules to effectuate the purposes of sections 121A.40 to 121A.56. The policies  
7.7 shall emphasize preventing dismissals through early detection of problems and shall be  
7.8 designed to address ~~students'~~ pupils' inappropriate behavior from recurring. The policies  
7.9 shall recognize the continuing responsibility of the school for the education of the pupil  
7.10 during the dismissal period. The alternative educational services, if the pupil wishes to take  
7.11 advantage of them, must be adequate to allow the pupil to make progress towards meeting  
7.12 the graduation standards adopted under section 120B.02 and help prepare the pupil for  
7.13 readmission.

7.14 (b) An area learning center under section 123A.05 may not prohibit an expelled or  
7.15 excluded pupil from enrolling solely because a district expelled or excluded the pupil. The  
7.16 board of the area learning center may use the provisions of the Pupil Fair Dismissal Act to  
7.17 exclude a pupil or to require an admission plan.

7.18 (c) Each school district shall develop a policy and report it to the commissioner on the  
7.19 appropriate use of peace and school resource officers and crisis teams to remove ~~students~~  
7.20 pupils who have an individualized education program from school grounds.

7.21 **EFFECTIVE DATE.** This section is effective for the 2019-2020 school year and later.

7.22 Sec. 12. Minnesota Statutes 2018, section 121A.61, is amended to read:

7.23 **121A.61 DISCIPLINE AND REMOVAL OF ~~STUDENTS~~ PUPILS FROM CLASS.**

7.24 Subdivision 1. **Required policy.** Each school board must adopt a written districtwide  
7.25 school discipline policy which includes written rules of conduct for ~~students~~ pupils, ~~minimum~~  
7.26 potential consequences for violations of the rules, parental notification requirements, and  
7.27 grounds and procedures for removal of a ~~student~~ pupil from class. The board must develop  
7.28 the policy ~~must be developed~~ in consultation with administrators, teachers, employees,  
7.29 pupils, parents, community members, law enforcement agencies, county attorney offices,  
7.30 social service agencies, and such other individuals or organizations as the board determines  
7.31 appropriate. A school site council may adopt additional provisions to the policy subject to  
7.32 the approval of the school board.

8.1 Subd. 2. **Grounds for removal from class.** The policy must establish the various grounds  
8.2 for which a ~~student~~ pupil may be removed from a class in the district for a period of time  
8.3 under the procedures specified in the policy. The policy must include a procedure for  
8.4 notifying and meeting with a ~~student's~~ pupil's parent or guardian to discuss the problem that  
8.5 is causing the ~~student~~ pupil to be removed from class after the ~~student~~ pupil has been removed  
8.6 from class more than ~~ten~~ five times in one school year. The grounds in the policy must  
8.7 include at least the following provisions as well as other grounds determined appropriate  
8.8 by the board:

8.9 ~~(a)~~ (1) willful conduct that significantly disrupts the rights of others to an education,  
8.10 including conduct that interferes with a teacher's ability to teach or communicate effectively  
8.11 with ~~students~~ pupils in a class or with the ability of other ~~students~~ pupils to learn;

8.12 ~~(b)~~ (2) willful conduct that endangers surrounding persons, including school district  
8.13 employees, the ~~student~~ pupil, or other ~~students~~ pupils, or the property of the school; and

8.14 ~~(c)~~ (3) willful violation of any rule of conduct specified in the discipline policy adopted  
8.15 by the board.

8.16 Subd. 3. **Policy components.** The policy must include at least the following components:

8.17 (a) rules governing ~~student~~ pupil conduct and procedures for informing ~~students~~ pupils  
8.18 of the rules;

8.19 (b) the grounds for removal of a ~~student~~ pupil from a class;

8.20 (c) the authority of the classroom teacher to remove ~~students~~ pupils from the classroom  
8.21 pursuant to procedures and rules established in the district's policy;

8.22 (d) the procedures for removal of a ~~student~~ pupil from a class by a teacher, school  
8.23 administrator, or other school district employee;

8.24 (e) the period of time for which a ~~student~~ pupil may be removed from a class, which  
8.25 may not exceed five class periods for a violation of a rule of conduct;

8.26 (f) provisions relating to the responsibility for and custody of a ~~student~~ pupil removed  
8.27 from a class;

8.28 (g) the procedures for return of a ~~student~~ pupil to the specified class from which the  
8.29 ~~student~~ pupil has been removed;

8.30 (h) the procedures for notifying a ~~student~~ pupil and the ~~student's~~ pupil's parents or  
8.31 guardian of violations of the rules of conduct and of resulting disciplinary actions;

9.1 (i) any procedures determined appropriate for encouraging early involvement of parents  
9.2 or guardians in attempts to improve a ~~student's~~ pupil's behavior;

9.3 (j) any procedures determined appropriate for encouraging early detection of behavioral  
9.4 problems;

9.5 (k) any procedures determined appropriate for referring a ~~student~~ pupil in need of special  
9.6 education services to those services;

9.7 (l) the procedures for consideration of whether there is a need for a further assessment  
9.8 or of whether there is a need for a review of the adequacy of a current individualized  
9.9 education program of a ~~student~~ pupil with a disability who is removed from class;

9.10 (m) procedures for detecting and addressing chemical abuse problems of a ~~student~~ pupil  
9.11 while on the school premises;

9.12 (n) the ~~minimum~~ potential consequences for violations of the code of conduct;

9.13 (o) procedures for immediate and appropriate interventions tied to violations ~~of the code~~;

9.14 (p) a provision that states that a teacher, school employee, school bus driver, or other  
9.15 agent of a district may use reasonable force in compliance with section 121A.582 and other  
9.16 laws;

9.17 (q) an agreement regarding procedures to coordinate crisis services to the extent funds  
9.18 are available with the county board responsible for implementing sections 245.487 to  
9.19 245.4889 for ~~students~~ pupils with a serious emotional disturbance or other ~~students~~ pupils  
9.20 who have an individualized education program whose behavior may be addressed by crisis  
9.21 intervention; and

9.22 (r) a provision that states a ~~student~~ pupil must be removed from class immediately if the  
9.23 ~~student~~ pupil engages in assault or violent behavior. For purposes of this paragraph, "assault"  
9.24 has the meaning given it in section 609.02, subdivision 10. The removal shall be for a period  
9.25 of time deemed appropriate by the principal, in consultation with the teacher.

9.26 **EFFECTIVE DATE.** This section is effective for the 2019-2020 school year and later.

9.27 Sec. 13. Minnesota Statutes 2018, section 121A.67, is amended by adding a subdivision  
9.28 to read:

9.29 **Subd. 3. Parent notification.** A school administrator must make and document efforts  
9.30 to immediately contact the parent or guardian of a pupil removed from a school building  
9.31 or school grounds by a peace officer or school resource officer unless such notice is  
9.32 specifically prohibited by law. If a pupil is secluded, a school administrator must make

- 10.1 reasonable efforts to notify the pupil's parent or guardian of the seclusion by the end of the
- 10.2 same school day.
- 10.3 **EFFECTIVE DATE.** This section is effective for the 2019-2020 school year and later.