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H.B. 206
135th General Assembly

Bill Analysis

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Version: As Reported by House Primary and Secondary Education

Primary Sponsors: Reps. Click and Robb Blasdel

Mariah M. Maldovan, Attorney

SUMMARY

- Permits a school district, community school, or STEM school to establish a policy that authorizes the district superintendent, or equivalent administrator, to expel a student for not more than 180 school days for actions that pose “imminent and severe endangerment” to the health and safety of other students or school employees.
- Requires the superintendent to develop conditions for a student expelled for imminent and severe endangerment to satisfy before that student may be reinstated, one of which must be an assessment by a psychiatrist, licensed psychologist, or licensed school psychologist to determine whether the student poses a danger.
- Requires a copy of the conditions for reinstatement to be provided in writing at the beginning of the expulsion period to the district or school board, the student, and the student’s parent, guardian, or custodian.
- Requires the superintendent to assess the student at the end of the expulsion period to determine whether the student has shown “sufficient rehabilitation” to be reinstated and permits the superintendent to extend the expulsion for another period not to exceed 90 school days, subject to further reassessment and extensions.
- Requires that cost of the assessment, if done by a psychiatrist, psychologist, or school psychologist employed or contracted by the district or school, be paid by the district or school.
- Requires that cost of the assessment, if done by a psychiatrist, psychologist, or school psychologist who is not employed or contracted by the district or school, be referred for payment to the student’s health insurance, with the remainder paid by the district or school.
- Permits a superintendent to develop contingent conditions for a student’s reinstatement and to revoke a student’s reinstatement if those conditions are not met.

- Expressly makes all determinations by a superintendent regarding an expulsion for imminent and severe endangerment subject to the same notification requirements and appeals process as other types of expulsions under current law.
- Requires the superintendent to develop a plan for the continued education of a student during the expulsion period within 15 school days after the beginning of the expulsion period for a student who does not have an individualized education program (IEP), or within ten school days for a student who does have an IEP.
- Requires the district or school to specify reasons for which the expulsion period may be reduced and establish guidelines regarding appropriate conditions for an expelled student to satisfy prior to reinstatement.
- Requires the superintendent to develop a list of alternative educational options for those expelled in accordance with the bill.
- Requires district boards to provide the Department of Education and Workforce (DEW) records of each expulsion made under a policy adopted under the bill and any changes to a pupil's expulsion status in a manner that complies with Ohio law regarding the confidentiality of student information.
- Permits a district or school to which a student with an expulsion record under a policy adopted under the bill transfers to request the student's expulsion record from the student's former school or from DEW and requires the former school or DEW to provide the requested records.
- Prohibits a school district or school from withholding records related to a student's expulsion due to outstanding debt attributed to the student.

DETAILED ANALYSIS

Expulsion of a student for imminent and severe endangerment

The bill permits the board of education of a school district, the governing authority of a community school, or the governing body of a STEM school to adopt a resolution establishing a policy that authorizes the district superintendent, or equivalent of a community or STEM school, to expel a student from school for not more than 180 school days for actions that the superintendent determines pose "imminent and severe endangerment" to the health and safety of other students or school employees.¹ The bill specifically states that such an expulsion may be sought even if the student's actions do not qualify for permanent exclusion from the Ohio public school system by the state Superintendent.

¹ R.C. 3313.66(B)(6) and 3313.661. R.C. 3313.66 and 3313.661 are applicable to community schools by reference in R.C. 3314.03 and to STEM schools by reference in R.C. 3326.11, neither in the bill.

The bill defines “imminent and severe endangerment” to include all of the following:²

1. Bringing a firearm or a knife capable of causing serious bodily injury to school, a property owned or controlled by the school board, or to an interscholastic competition, extracurricular event, or other program or activity sponsored by the school district or in which the district is a participant;
2. Committing an act that is a criminal offense when committed by an adult and that results in serious physical harm to persons or property while at any of the above locations;
3. Making a bomb threat to a school building or to any premises at which a school activity is occurring at the time of the threat; or
4. Making an articulated or verbalized threat, including a hit list, threatening manifesto, or social media post, that would lead a reasonable person to conclude that the student poses a serious threat.

If the superintendent expels a student under the bill, the superintendent is required to develop conditions for the student to satisfy before that student may be reinstated. A copy of the conditions must be provided in writing at the beginning of the expulsion period to the district’s or school’s board, the student, and the student’s parent.³ The district’s or school’s board is required to establish guidelines for appropriate conditions (see “**Duties of the board**” below).⁴

Additionally, the bill specifically requires that one of the conditions for reinstatement must be an assessment to determine whether the student poses a danger to the student’s self, other students, or school employees. The assessment must be completed by a psychiatrist, licensed psychologist, or licensed school psychologist, who is agreed upon by both the district superintendent and the student’s parent. (For the purposes of this analysis, the term “parent” means the student’s parent, guardian, or custodian.)

Under the bill, a psychiatrist must be a licensed physician who meets specified requirements regarding training in psychiatry. The bill permits a psychiatrist, licensed psychologist, or licensed school psychologist to include recommendations for contingent conditions on a student’s reinstatement in the assessment (see “**Contingent conditions for reinstatement**” below).⁵

The bill permits a school district that adopts an expulsion policy under the bill to subject the reinstatement of a student who is expelled for bringing a firearm to school to the

² R.C. 3313.66(K)(4).

³ R.C. 3313.66(B)(6).

⁴ R.C. 3313.661(E)(1).

⁵ R.C. 3313.66(B)(6); see also R.C. 5122.01, not in the bill.

reinstatement process under that policy. In alignment with federal law, Ohio generally requires school superintendents to expel a student for one year for bringing a firearm to school.⁶

Assessment of an expelled student

At the end of the expulsion period, the superintendent must assess the student to determine whether the student has shown “sufficient rehabilitation” to be reinstated.⁷ The bill defines “sufficient rehabilitation” to mean that a student has met all conditions for reinstatement set by the superintendent and has been determined by the superintendent to no longer pose a danger to the student’s self, other students, or other school employees.⁸

If the student has not shown sufficient rehabilitation, the superintendent may extend the expulsion for another period of not longer than 90 school days.⁹ When making a determination on reinstatement, the superintendent must take into consideration both (1) the assessment that was completed by the psychiatrist, psychologist, or school psychologist, and (2) whether the student met the conditions developed by the superintendent.¹⁰

If a student has been expelled for a 180-day original expulsion period or a 90-day extended expulsion period, the superintendent must make the reinstatement determination in consultation with a multidisciplinary team selected by the superintendent.¹¹

Contingent conditions for reinstatement

The bill permits a superintendent to impose contingent conditions for a student’s reinstatement. These conditions may include the conditions developed for the original expulsion period and recommendations made by the psychiatrist, psychologist, or school psychologist who conducted the student’s reinstatement assessment. The superintendent must set a duration under which the student must meet these contingent conditions, which may extend to the student’s graduation date. The superintendent must also provide a copy of the contingent conditions in writing to the district board, student, and the student’s parent when issuing the superintendent’s reinstatement determination.

The bill permits a superintendent to revoke a student’s reinstatement and establish an extended expulsion period if a student fails to meet the contingent conditions.¹²

⁶ R.C. 3313.66(B)(2)(a); see also the federal Gun-Free Schools Act, 20 United States Code 7961.

⁷ R.C. 3313.66(B)(6)(a).

⁸ R.C. 3313.66(K)(5).

⁹ R.C. 3313.66(B)(6)(a)(ii).

¹⁰ R.C. 3313.66(B)(6)(a).

¹¹ R.C. 3313.66(B)(6)(a).

¹² R.C. 3313.66(B)(6)(e).

Extended expulsion periods

If the superintendent determines that the student has not shown “sufficient rehabilitation” and extends the expulsion period, the superintendent must develop a new set of conditions for the student to satisfy before that student may be reinstated. These conditions may be the same conditions that the superintendent developed for the original expulsion period. The superintendent again must provide these conditions in writing to the district or school board, the student, and the student’s parent at the beginning of the extended expulsion period.

At the end of the extended expulsion period, the superintendent must reassess the student in the same manner as for the original expulsion period and determine whether the student has shown “sufficient rehabilitation” to be reinstated. As with the original expulsion period, if the student has not, the superintendent may extend the expulsion for another period not to exceed 90 school days. The bill expressly states that there is no limit on the number of times the superintendent may choose to extend an expulsion.¹³

Early assessment and reduction of an expulsion period

Prior to the end of the original expulsion period or of an extended expulsion period, the student or the student’s parent may request that the superintendent complete an early assessment of the student. If a request is made, the superintendent must complete an assessment and make a determination in the same manner as would apply at the end of the expulsion period. The student or the student’s parent may request an early assessment only once for the original expulsion period and only once for each extended expulsion period.¹⁴

Additionally, the bill permits the superintendent to reduce a student’s expulsion on a case-by-case basis prior to the end of the original expulsion period or of an extended expulsion period, if that student has met all of the conditions developed by the superintendent at the beginning of the expulsion period.¹⁵

In making either of the above determinations, the superintendent must comply with the district or school board’s policy regarding the reduction of an expulsion period (see “**Duties of the board**” below).

Payment for assessment

The bill prescribes the following payment structure for the assessment completed by a psychiatrist, psychologist, or school psychologist, as a required condition for reinstatement, to determine whether the student poses a danger to that student’s self, other students, or school employees:

¹³ R.C. 3313.66(B)(6)(b).

¹⁴ R.C. 3313.66(B)(6)(d).

¹⁵ R.C. 3313.66(B)(6)(c).

1. If the psychiatrist, psychologist, or school psychologist is employed or contracted by the district, the district must pay in full for the cost of that assessment.
2. If the psychiatrist, psychologist, or school psychologist is not employed or contracted by the district, the cost of that assessment must be referred for payment to the student's health insurance. Following referral, any costs that are not covered by the student's health insurance must be paid by the district.¹⁶

Additionally, because the bill requires the superintendent to assess a student during an early assessment or at the end of an extended expulsion period in the same manner as for the original expulsion period (see "**Extended expulsion periods**" and "**Early assessment and reduction of an expulsion period**" above), this payment structure presumably would apply to the required assessment completed by a psychiatrist, psychologist, or school psychologist for either of these circumstances.

Due process

A student subject to an expulsion authorized by the bill is entitled to the same due process procedures as a student subject to any other type of expulsion under current law. Therefore, when making any determination in regard to an expulsion for imminent and severe endangerment, the superintendent must comply with all of the notification requirements that currently apply to other types of expulsions.¹⁷ Similarly, any determination made by the superintendent regarding such an expulsion is subject to the same appeals process as other types of expulsion under current law.¹⁸ Any determination made by the superintendent regarding such an expulsion is subject to these requirements, including not only the decision to expel a student, but also the decision whether to reinstate the student or to extend the expulsion period.

Plan for the continued education of an expelled student

The bill requires the superintendent to develop a plan for the continued education of a student who is expelled for imminent and severe endangerment. The plan may include educational options such as an alternative school operated by the district or school, instruction at home, enrollment in another public or nonpublic school, or any other form of instruction that complies with the compulsory school attendance law. In developing the plan, the superintendent must consult with the student, the student's parent, and the student's IEP team, if the student has one. The plan must be developed within fifteen school days after the beginning of the original expulsion period or of any extended expulsion period for a student

¹⁶ R.C. 3313.66(B)(6), second paragraph.

¹⁷ R.C. 3313.66(B)(6)(a).

¹⁸ R.C. 3313.66(B)(6)(g).

who does not have an IEP, or within ten school days of the beginning of an expulsion period for a student who does have an IEP.¹⁹

The bill requires the district superintendent to develop a list of alternative educational options for students who are expelled under the bill.²⁰

Duties of the board

If a district or school board adopts a resolution authorizing the superintendent to expel a student for imminent and severe endangerment, the board is required to do three things. First, the board must specify reasons for which the superintendent may reduce an expulsion period on a case-by-case basis (see “**Early assessment and reduction of an expulsion period**” above).²¹ Second, the board must establish guidelines regarding appropriate conditions that the superintendent may develop for a student to satisfy prior to that student’s reinstatement (see “**Expulsion of a student for imminent and severe endangerment**” above).²² Finally, the board must provide the Department of Education and Workforce records of each expulsion made under the policy (see “**Transfer of expulsion records**” below).²³

Transfer of expulsion records

The bill requires a school district board of education to provide the Department with records of each expulsion made under a policy adopted under the bill and of any changes to a student’s expulsion status. Boards must submit these records without using a student’s name and in accordance with laws regarding the statewide Education Management Information System and the confidentiality of student information.

The bill permits a school district or school to which a student with an expulsion record under a policy adopted under the bill transfers to request those records from the student’s former school or from the Department and requires the student’s former school or the Department to provide the requested records.²⁴ The bill also prohibits a school district or school from withholding records related to a student’s expulsion due to outstanding debt attributed to the student.²⁵

¹⁹ R.C. 3313.66(B)(6)(f).

²⁰ R.C. 3313.661(F).

²¹ R.C. 3313.661(A).

²² R.C. 3313.661(E).

²³ R.C. 3313.66(B)(6)(h).

²⁴ R.C. 3313.66(B)(6)(h); see also R.C. 3301.0714 and 3319.321, not in the bill.

²⁵ R.C. 3319.324(E).

Background

Current law provides some mechanisms for removing students from a public school for disciplinary reasons, including suspension, expulsion, reassignment, emergency removal, and permanent exclusion. Under current law, each school district, community school, and STEM school must adopt a code of conduct for the district or school and policies for the enforcement of that code. A student that is subject to suspension, expulsion, or permanent exclusion is entitled to specific due process procedures *prior* to imposition of the discipline, as well as an appeals process. However, in the case of emergency removal, which is temporary in nature, the student is entitled to due process following the imposition of the disciplinary action.

HISTORY

Action	Date
Introduced	06-06-23
Reported, H. Primary & Secondary Education	11-29-23
