

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 SENATE BILL 452

By: Ikley-Freeman

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5
6 AS INTRODUCED

7 An Act relating to student discipline; amending
8 Section 8, Chapter 7, 1st Extraordinary Session,
9 O.S.L. 2013, as amended by Section 1, Chapter 135,
10 O.S.L. 2015 (70 O.S. Supp. 2018, Section 6-149.7),
11 which relates to assault or attempted physical bodily
12 injury on school employees; requiring school
13 districts to consider using certain restorative
14 practices in lieu of certain suspension; amending 70
15 O.S. 2011, Section 24-101.3, as last amended by
16 Section 1, Chapter 90, O.S.L. 2016 (70 O.S. Supp.
17 2018, Section 24-101.3), which relates to out-of-
18 school suspension; requiring certain policy to
19 facilitate the re-engagement of certain students;
20 requiring school districts to consider using certain
21 restorative practices in lieu of certain suspension;
22 providing examples of restorative practices;
23 requiring restorative practices to be considered
24 first for certain actions; requiring restorative
25 practices to be accessible; removing outdated
26 reference; updating reference; allowing rather than
27 requiring that a student be suspended for certain
28 action; requiring school districts to create certain
29 threat assessment team; providing for membership;
30 allowing the team to use certain screening tool and
31 consider certain records; requiring school districts
32 to make certain effort to provide certain
33 professional development; providing an effective
34 date; and declaring an emergency.

35 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

1 SECTION 1. AMENDATORY Section 8, Chapter 7, 1st
2 Extraordinary Session, O.S.L. 2013, as amended by Section 1, Chapter
3 135, O.S.L. 2015 (70 O.S. Supp. 2018, Section 6-149.7), is amended
4 to read as follows:

5 Section 6-149.7. A. No student enrolled in a school shall
6 assault, attempt to cause physical bodily injury, or act in a manner
7 that could reasonably cause bodily injury to an education employee
8 or a person who is volunteering for the school. Any student in
9 grades six through twelve who violates the provisions of this
10 section ~~shall~~ may be subject to out-of-school suspension as provided
11 for in Section 24-101.3 of this title. This section shall be in
12 addition to and does not limit the criminal liability of a person
13 who causes or commits an assault, battery, or assault and battery
14 upon a school employee as provided for in Section 650.7 of Title 21
15 of the Oklahoma Statutes.

16 B. No education employee shall be liable for the use of
17 necessary and reasonable force to control and discipline a student
18 during the time the student is in attendance at the school or in
19 transit to or from the school, or any other function authorized by
20 the school district.

21 C. In lieu of out-of-school suspension as provided for in
22 subsection A of this section, a school district shall consider using
23 restorative practices as described in Section 24-101.3 of this
24 title.

1 SECTION 2. AMENDATORY 70 O.S. 2011, Section 24-101.3, as
2 last amended by Section 1, Chapter 90, O.S.L. 2016 (70 O.S. Supp.
3 2018, Section 24-101.3), is amended to read as follows:

4 Section 24-101.3. A. Any student who is guilty of an act
5 described in paragraph 1 of subsection C of this section may be
6 suspended out-of-school in accordance with the provisions of this
7 section. Each school district board of education shall adopt a
8 policy with procedures which provides for out-of-school suspension
9 of students. The policy shall address the term of the out-of-school
10 suspension, provide an appeals process as described in subsection B
11 of this section, and provide that before a student is suspended out-
12 of-school, the school or district administration shall consider and
13 apply, if appropriate, alternative in-school placement options that
14 are not to be considered suspension, such as placement in an
15 alternative school setting, reassignment to another classroom, or
16 in-school detention. The policy shall address education for
17 students subject to the provisions of subsection D of this section
18 and whether participation in extracurricular activities shall be
19 permitted. The policy shall facilitate the re-engagement of
20 students who are suspended out-of-school or returning from an
21 alternative school setting as described in subsection H of this
22 section.

23 B. 1. Students suspended out-of-school for ten (10) or fewer
24 days shall have the right to appeal the decision of the

1 administration as provided in the policy required in subsection A of
2 this section. The policy shall specify whether appeals for short-
3 term suspensions as provided in this subsection shall be to a local
4 committee composed of district administrators or teachers or both,
5 or to the district board of education. Upon full investigation of
6 the matter, the committee or board shall determine the guilt or
7 innocence of the student and the reasonableness of the term of the
8 out-of-school suspension. If the policy requires appeals for short-
9 term suspensions to a committee, the policy adopted by the board
10 may, but is not required to, provide for appeal of the committee's
11 decision to the board.

12 2. Students suspended out-of-school for more than ten (10) days
13 and students suspended pursuant to the provisions of paragraph 2 of
14 subsection C of this section may request a review of the suspension
15 with the administration of the district. If the administration does
16 not withdraw the suspension, the student shall have the right to
17 appeal the decision of the administration to the district board of
18 education. Except as otherwise provided for in paragraph 2 of
19 subsection C of this section, no out-of-school suspension shall
20 extend beyond the current semester and the succeeding semester.
21 Upon full investigation of the matter, the board shall determine the
22 guilt or innocence of the student and the reasonableness of the term
23 of the out-of-school suspension. A board of education may conduct
24 the hearing and render the final decision or may appoint a hearing

1 officer to conduct the hearing and render the final decision. The
2 decision of the district board of education or the hearing officer,
3 if applicable, shall be final.

4 C. In lieu of out-of-school suspension as provided for in
5 subsection A of this section, a school district shall consider using
6 restorative practices as an alternative or in addition to suspension
7 that provide the student the opportunity to accept responsibility
8 for the distress or harm caused to those affected by the misconduct
9 and to participate in setting consequences to repair the harm. The
10 selected consequences may be incorporated into an agreement that
11 sets the limits for completion and is signed by the student.

12 Restorative practices may include:

13 1. Requiring the student to apologize, participate in community
14 service or pay restitution;

15 2. Requiring that the student participate in in-service
16 activities with or without the support of a parent or legal guardian
17 for a specified number of days; or

18 3. Requiring that the student be assessed by a licensed mental
19 health professional and receive counseling, treatment, case
20 management, peer services or other services if recommended by the
21 licensed mental health professional.

22 D. Restorative practices shall be the first consideration to
23 remediate offenses such as interpersonal conflicts, bullying, verbal
24 and physical conflicts, theft, damage to property, class disruption,

1 harassment and cyberbullying. School districts shall provide
2 restorative practices that are accessible to all students regardless
3 of income level or family resources, such as offering a restorative
4 program in a school setting, offering referrals to low-cost mental
5 health assessments and services provided by an agency contracted
6 with the Department of Mental Health and Substance Abuse Services or
7 a Youth Services Agency.

8 E. 1. Students who are guilty of any of the following acts may
9 be suspended out-of-school by the administration of the school or
10 district:

- 11 a. violation of a school regulation,
- 12 b. possession of an intoxicating beverage, ~~low point~~
13 ~~beer, as defined by Section 163.2 of Title 37 of the~~
14 ~~Oklahoma Statutes,~~ or missing or stolen property if
15 the property is reasonably suspected to have been
16 taken from a student, a school employee, or the school
17 during school activities, and
- 18 c. possession of a dangerous weapon or a controlled
19 dangerous substance while on or within two thousand
20 (2,000) feet of public school property, or at a school
21 event, as defined in the Uniform Controlled Dangerous
22 Substances Act. Possession of a firearm shall result
23 in out-of-school suspension as provided in paragraph 2
24 of this subsection.

1 2. Any student found in possession of a firearm while on any
2 public school property or while in any school bus or other vehicle
3 used by a public school for transportation of students or teachers
4 shall be suspended out-of-school for a period of not less than one
5 (1) year, to be determined by the district board of education
6 pursuant to the provisions of this section. The term of the
7 suspension may be modified by the district superintendent on a case-
8 by-case basis. For purposes of this paragraph the term "firearm"
9 shall mean and include all weapons as defined by 18 U.S.C., Section
10 921.

11 3. Any student in grades six through twelve found to have
12 assaulted, attempted to cause physical bodily injury, or acted in a
13 manner that could reasonably cause bodily injury to a school
14 employee or a person volunteering for a school as prohibited
15 pursuant to Section ~~6-146~~ 6-149.7 of this title ~~shall~~ may be
16 suspended for the remainder of the current semester and the next
17 consecutive semester, to be determined by the board of education
18 pursuant to the provisions of this section. The term of the
19 suspension may be modified by the district superintendent on a case-
20 by-case basis.

21 D. F. At its discretion a school district may provide an
22 education plan for students suspended out-of-school for five (5) or
23 fewer days pursuant to the provisions of this subsection. The
24 following provisions shall apply to students who are suspended out-

1 of-school for more than five (5) days and who are guilty of acts
2 listed in subparagraphs a and b of paragraph 1 of subsection C of
3 this section. Upon the out-of-school suspension, the parent or
4 guardian of a student suspended out-of-school pursuant to the
5 provisions of this subsection shall be responsible for the provision
6 of a supervised, structured environment in which the parent or
7 guardian shall place the student and bear responsibility for
8 monitoring the student's educational progress until the student is
9 readmitted into school. The school administration shall provide the
10 student with an education plan designed for the eventual
11 reintegration of the student into school which provides only for the
12 core units in which the student is enrolled. A copy of the
13 education plan shall also be provided to the student's parent or
14 guardian. For the purposes of this section, the core units shall
15 consist of the minimum English, mathematics, science, social studies
16 and art units required by the State Board of Education for grade
17 completion in grades kindergarten through eight and for high school
18 graduation in grades nine through twelve. The plan shall set out
19 the procedure for education and shall address academic credit for
20 work satisfactorily completed.

21 E. G. A student who has been suspended out-of-school from a
22 public or private school in the State of Oklahoma or another state
23 for a violent act or an act showing deliberate or reckless disregard
24 for the health or safety of faculty or other students shall not be

1 entitled to enroll in a public school of this state, and no public
2 school shall be required to enroll the student, until the terms of
3 the suspension have been met or the time of suspension has expired.

4 ~~F.~~ H. 1. No public school of this state shall be required to
5 provide education services in the regular school setting to any
6 student who has been:

- 7 a. adjudicated as a delinquent for an offense defined as
8 a violent crime in Section 571 of Title 57 of the
9 Oklahoma Statutes,
- 10 b. convicted as an adult of an offense defined as a
11 violent crime in Section 571 of Title 57 of the
12 Oklahoma Statutes,
- 13 c. who has been removed from a public or private school
14 in the State of Oklahoma or another state by
15 administrative or judicial process for a violent act
16 or an act showing deliberate or reckless disregard for
17 the health or safety of faculty or other students,
- 18 d. suspended as provided for in paragraph 3 of subsection
19 C of this section, or
- 20 e. has been removed from a public or private school in
21 the state or another state by administrative or
22 judicial process for an act of using electronic
23 communication, as defined in Section 24-100.3 of this
24 title, with intent to terrify, intimidate or harass,

1 or threaten to inflict injury or physical harm to
2 faculty or other students.

3 2. The school in which a student as described in paragraph 1 of
4 this subsection is subsequently enrolled may elect to not provide
5 education services in the regular school setting until the school
6 determines that the student no longer poses a threat to self, other
7 students or school district faculty or employees. Until the school
8 in which such student subsequently enrolls or re-enrolls determines
9 that the student no longer poses a threat to self, other students or
10 school district faculty or employees, the school may provide
11 education services through an alternative school setting, home-based
12 instruction, or other appropriate setting. If the school provides
13 education services to the student at a district school facility, the
14 school shall notify any student or school district faculty or
15 employee victims of the student, when known, and shall ensure that
16 the student will not be allowed in the general vicinity of or
17 contact with a victim of the student, provided the victim notifies
18 the school of the victim's desire to refrain from contact with the
19 offending student.

20 3. As part of the determination of threat, the school district
21 shall create a threat assessment team that may include as
22 appropriate the student, the parent or legal guardian, treatment
23 professionals, law enforcement or school resource officers,
24 governmental agencies and other professionals involved in the care

1 of the student. The threat assessment team may use a validated risk
2 assessment screening tool and consider rehabilitation progress
3 records, such as mental health consultations and probation records.

4 ~~G.~~ I. Students suspended out-of-school who are on an
5 individualized education plan pursuant to the Individuals with
6 Disabilities Education Act, P.L. No. 101-476, or who are subject to
7 the provisions of subsection F of this section and who are on an
8 individualized education plan shall be provided the education and
9 related services in accordance with the student's individualized
10 education plan.

11 ~~H.~~ J. A student who has been suspended for a violent offense
12 which is directed towards a classroom teacher shall not be allowed
13 to return to that teacher's classroom without the approval of that
14 teacher.

15 ~~I.~~ K. At its discretion, a school district may require a
16 student guilty of acts listed in subparagraph a or b of paragraph 1
17 of subsection C of this section to complete intervention and
18 prevention programs as provided by designated Youth Service
19 Agencies, if available.

20 ~~J.~~ L. No school board, administrator or teacher may be held
21 civilly liable for any action taken in good faith which is
22 authorized by this section.

23 M. School districts shall make efforts to provide ongoing
24 trauma-informed professional development to teachers,

1 administrators, school district board of education members, school
2 resource officers and school staff on the adverse consequences of
3 school exclusion and justice system involvement and culturally
4 responsive disciplinary methods that promote positive and healthy
5 school climates.

6 SECTION 3. This act shall become effective July 1, 2019.

7 SECTION 4. It being immediately necessary for the preservation
8 of the public peace, health or safety, an emergency is hereby
9 declared to exist, by reason whereof this act shall take effect and
10 be in full force from and after its passage and approval.

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