

1 State of Arkansas
2 84th General Assembly
3 Second Extraordinary Session, 2003
4

Call Item 4

A Bill

HOUSE BILL 1147

5 By: Representative Rosenbaum
6
7

For An Act To Be Entitled

9 THE SAFE SCHOOLS ACT OF 2004; AN ACT CONCERNING
10 SUSPENSION OR EXPULSION OF A STUDENT FOR
11 MISCONDUCT; AND FOR OTHER PURPOSES.
12

Subtitle

14 THE SAFE SCHOOLS ACT OF 2004.
15
16

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
18

19 SECTION 1. Arkansas Code § 6-18-511(d), concerning removal of a
20 student by a teacher, is amended to add an additional subsection to read as
21 follows:

22 (d)(1)(A) If a teacher removes a student from class twice during any
23 nine-week grading period or its equivalent as determined by the Department of
24 Education, the principal or his designee may not return the student to the
25 teacher's class unless ~~a conference is held for the purpose of determining~~
26 ~~the causes of the problem and possible solutions, with the following~~
27 ~~individuals present:~~

28 ~~(A) The principal or his designee;~~

29 ~~(B) The teacher;~~

30 ~~(C) The school counselor;~~

31 ~~(D) The parents, guardians, or persons in loco parentis;~~

32 and

33 ~~(E) The student, if appropriate~~

34 the committee established under § 6-18-1402 determines that placement is the
35 best or only alternative available.

36 (B) The terms of the removal may prohibit the student from



1 attending or participating in school-sponsored or school-related activity.

2 (2)(A) A teacher shall remove from class and send to the
 3 principal for placement in an alternative education program or for expulsion,
 4 as appropriate, a student who engages in conduct described under § 6-18-1405
 5 or § 6-18-1406.

6 (B) The student may not be returned to that teacher's
 7 class without the teacher's consent unless the committee established under §
 8 6-18-1402 determines that that placement is the best or only alternative
 9 available.

10 ~~(2) The failure of the parents, guardians, or persons in loco~~
 11 ~~parentis to attend the conference provided for in this subsection (d) shall~~
 12 ~~not prevent the conference from being held nor prevent any action from being~~
 13 ~~taken as a result of that conference.~~

14
 15 SECTION 2. Arkansas Code Title 6, Chapter 18, is amended to add an
 16 additional subchapter to read as follows:

17 6-18-1401. Student code of conduct.

18 (a)(1) The board of directors of each school district shall adopt a
 19 student code of conduct for the district.

20 (2) Only the board of directors may modify, amend, or revise the
 21 student code of conduct.

22 (b) The student code of conduct shall be posted and prominently
 23 displayed at each school campus.

24 (c) In addition to establishing standards for student conduct, the
 25 student code of conduct shall:

26 (1) Specify the circumstances, under Arkansas Code Title 6,
 27 Chapter 18, Subchapter 5 and this subchapter:

28 (A) Under which a student may be removed from a classroom,
 29 campus, or alternative education program; and

30 (B) That authorize or require a principal or other
 31 appropriate administrator to transfer a student to an alternative education
 32 program; and

33 (2) Outline conditions under which a student may be suspended as
 34 provided by § 6-18-1405 or expelled as provided by § 6-18-1406.

35 (d)(1) A teacher with knowledge that a student has violated the
 36 student code of conduct shall file with the school principal a written

1 report, not to exceed one (1) page, documenting the violation.

2 (2) No later than twenty-four (24) hours after receipt of a
 3 report from a teacher, the principal shall send a copy of the report to the
 4 student's parents, guardians or persons in loco parentis.

5
 6 6-18-1402. Placement Review Committee.

7 (a)(1) Each school shall establish a three-member Placement Review
 8 Committee to determine placement of a student when a teacher refuses the
 9 return of a student to the teacher's class.

10 (2) The Placement Review Committee shall make recommendations to
 11 the district regarding readmission of expelled students.

12 (b)(1) Members of the Placement Review Committee shall be appointed as
 13 follows:

14 (A) The campus faculty at each school shall choose two (2)
 15 teachers to serve as members and one (1) teacher to serve as an alternate
 16 member; and

17 (B) The principal shall choose one (1) member from the
 18 professional staff of a campus.

19 (2) The teacher refusing to readmit the student may not serve on
 20 the Placement Review Committee in review of that student's conduct.

21
 22 6-18-1403. Placement of students with disabilities.

23 (a) For purposes of this section, "individualized education program"
 24 means a written statement for each child with disabilities developed in a
 25 meeting consistent with the requirements of the Individuals with Disabilities
 26 Education Act, 20 U.S.C. § 1400 et seq.

27 (b)(1) The placement of a student with a disability who receives
 28 special education services may be made only by a duly constituted admission,
 29 review, and dismissal committee.

30 (2) Any disciplinary action regarding a student with
 31 disabilities that would constitute a change in placement under the student's
 32 individualized education program may only occur after a manifestation
 33 determination review has been conducted by the student's admission, review,
 34 and dismissal committee.

35 (3) This section shall not authorize a change in placement for
 36 conduct arising from the student's disability.

1 (c) A disciplinary action regarding a student with a disability who
 2 receives special education services shall be determined in accordance with
 3 the student’s individualized education program and any other applicable
 4 federal law and regulations, including the provision of functional behavioral
 5 assessments; positive behavioral interventions, strategies, and supports;
 6 behavioral intervention plans; and the manifestation determination review.

7
 8 6-18-1404. Suspension.

9 (a) The principal may suspend a student who engages in conduct for
 10 which the student may be placed in an alternative education program under
 11 this subchapter.

12 (b) A suspension under this section may not exceed three (3) school
 13 days.

14
 15 6-18-1405. Removal for certain conduct.

16 (a) Except as provided by § 6-18-1403(a) or § 6-18-1403(b), a student
 17 shall be removed from class and placed in an alternative education program if
 18 the student:

19 (1) Engages in conduct involving a public school that contains
 20 the elements of the offense of communicating a false alarm under § 5-60-111
 21 or terroristic threatening under § 5-13-301; or

22 (2) Commits any of the following on or within three hundred feet
 23 (300’) of school property, as measured from any point on the school’s real
 24 property boundary line, or while attending a school-sponsored or school-
 25 related activity on or off of school property:

26 (A) Engages in conduct:

27 (i) Punishable as a felony; or

28 (ii) Contains the elements of the offense of assault
 29 under Arkansas Code Title 5;

30 (B) Sells, gives, or delivers to another person or
 31 possesses or uses or is under the influence of marijuana or a controlled
 32 substance under Arkansas Code Title 5, Chapter 64;

33 (C)(i) Sells, gives, or delivers to another person an
 34 alcoholic beverage.

35 (ii) Commits a serious act or offense while under
 36 the influence of alcohol.

1 (iii) Possesses, uses, or is under the influence of
 2 an alcoholic beverage; or

3 (D) Engages in conduct that contains the elements of the
 4 offense of indecent exposure under § 5-14-112.

5 (b) Except as provided by § 6-18-1406(d), a student shall be removed
 6 from class and placed in an alternative education program if the student
 7 engages in conduct that contains the elements of the offense of insult or
 8 abuse of teacher under § 6-17-106.

9 (c) A student shall be removed from class and placed in an alternative
 10 education program based on conduct occurring off campus and while the student
 11 is not in attendance at a school-sponsored or school-related activity if:

12 (1) The student receives deferred prosecution under Arkansas
 13 Code Title 5;

14 (2) A court finds that the student is a delinquent juvenile
 15 under Arkansas Code Title 9; or

16 (3) The superintendent or the superintendent's designee has a
 17 reasonable belief that the student has engaged in a conduct defined as a
 18 felony offense under Arkansas Code Title 5.

19 (d) A student may be removed from class and placed in an alternative
 20 education program based on conduct occurring off campus and while the student
 21 is not in attendance at a school-sponsored or school-related activity if:

22 (1) The superintendent or the superintendent's designee has a
 23 reasonable belief that the student has engaged in conduct defined as a felony
 24 offense other than those defined under Arkansas Code Title 5; and

25 (2) The continued presence of the student in the regular
 26 classroom threatens the safety of other students or teachers or will be
 27 detrimental to the educational process.

28 (e) In determining whether there is a reasonable belief that a student
 29 has engaged in conduct defined as a felony offense under Arkansas Code Title
 30 5, the superintendent or the superintendent's designee may consider all
 31 available information.

32 (f)(1) A student who is younger than ten (10) years of age shall be
 33 removed from class and placed in an alternative education program if the
 34 student engages in conduct described under this section.

35 (2) An elementary school student may not be placed in an
 36 alternative education program with any other student who is not an elementary

1 school student.

2 (g) The terms of a placement under this section shall prohibit the
3 student from attending or participating in a school-sponsored or school-
4 related activity.

5 (h) Notwithstanding any other provision of this subchapter, a student
6 who is younger than six (6) years of age may not be removed from class and
7 placed in an alternative education program.

8

9 6-18-1406. Expulsion for serious offenses.

10 (a) A student shall be expelled from a school if the student, on
11 school property or while attending a school-sponsored or school-related
12 activity on or off of school property:

13 (1) Uses, exhibits, or possesses:

14 (A) A firearm;

15 (B) An unauthorized knife; or

16 (C) A dangerous weapon;

17 (2) Engages in conduct that contains the elements of the offense

18 of:

19 (A) Aggravated assault as prohibited in § 5-13-204;

20 (B) Terroristic threatening in the first degree as

21 prohibited in § 5-13-301;

22 (C) Kidnapping as prohibited in § 5-11-102;

23 (D) False imprisonment in the first degree as prohibited

24 in § 5-11-103;

25 (E) Permanent detention or restraint as prohibited in § 5-

26 11-106;

27 (F) Rape as prohibited in § 5-14-103;

28 (G) Sexual assault in the first degree as prohibited in §

29 5-14-124;

30 (H) Sexual assault in the second degree as prohibited in §

31 5-14-125;

32 (I) Sexual assault in the third degree as prohibited in §

33 5-14-126;

34 (J) Sexual assault in the fourth degree as prohibited in §

35 5-14-127;

36 (K) Incest as prohibited in § 5-26-202;

1 (L) Endangering the welfare of a minor in the first degree
2 as prohibited in § 5-27-203;

3 (M) Permitting abuse of a child as prohibited in § 5-27-
4 221(a)(1) and (3);

5 (N) Engaging children in sexually explicit conduct for use
6 in visual or print medium, transportation of minors for prohibited sexual
7 conduct, use of a child or consent to use of a child in sexual performance,
8 and producing, directing, or promoting sexual performance by a child, as
9 prohibited in §§ 5-27-303, 5-27-305, 5-27-402, and 5-27-403;

10 (O) Criminal attempt, criminal solicitation, or criminal
11 conspiracy as prohibited in §§ 5-3-201, 5-3-202, 5-3-301, and 5-3-401 to
12 commit any of the offenses listed in this subsection (a);

13 (P) Computer child pornography as prohibited in § 5-27-
14 603; and

15 (Q) Computer exploitation of a child in the first degree
16 as prohibited in § 5-27-605;

17 (R) Arson as prohibited in § 5-38-301;

18 (S) Capital murder as prohibited in § 5-10-101, murder in
19 the first degree as prohibited in § 5-10-102, or criminal attempt to commit
20 murder or capital murder; or

21 (T) Kidnapping as prohibited in § 5-11-102; or

22 (3) Engages in conduct specified by § 6-18-1405, if the conduct
23 is punishable as a felony.

24 (b) A student may be expelled if the student:

25 (1) Engages in conduct involving a public school that contains
26 the elements of the offense of communicating a false alarm under § 5-60-111
27 or terroristic threatening under § 5-13-301; or

28 (2) Commits any of the following on or within three hundred feet
29 (300') of school property, as measured from any point on the school's real
30 property boundary line, or while attending a school-sponsored or school-
31 related activity on or off of school property:

32 (A) Engages in conduct:

33 (i) Punishable as a felony; or

34 (ii) Contains the elements of the offense of assault
35 under Arkansas Code Title 5;

36 (B) Sells, gives, or delivers to another person or

1 possesses or uses or is under the influence of marijuana or a controlled
 2 substance under Arkansas Code Title 5, Chapter 64;

3 (C)(i) Sells, gives, or delivers to another person an
 4 alcoholic beverage.

5 (ii) Commits a serious act or offense while under
 6 the influence of alcohol.

7 (iii) Possesses, uses, or is under the influence of
 8 an alcoholic beverage; or

9 (D) Engages in conduct that contains the elements of the
 10 offense of indecent exposure under § 5-14-112.

11 (c) A student may be expelled if the student, while placed in an
 12 alternative education program for disciplinary reasons, continues to engage
 13 in serious or persistent misbehavior that violates the district's student
 14 code of conduct.

15 (d)(1) A student shall be expelled if the student engages in conduct
 16 that contains the elements of any offense listed in subsection (b) of this
 17 section.

18 (2) A student may be expelled if the student engages in conduct
 19 that contains the elements of any offense listed in subsection (b)(1) of this
 20 section, against any employee or volunteer in retaliation for or as a result
 21 of the person's employment or association with a school district, without
 22 regard to whether the conduct occurs on or off of school property or while
 23 attending a school-sponsored or school-related activity on or off of school
 24 property.

25 (e)(1) In accordance with federal law, a local educational agency,
 26 including a school district or open-enrollment charter school, shall expel a
 27 student who brings a firearm to school.

28 (2) The student must be expelled from the student's regular
 29 campus for a period of at least one (1) year, except that:

30 (A) The superintendent may modify the length of the
 31 expulsion in the case of an individual student;

32 (B) The school district shall provide educational services
 33 to an expelled student in an alternative education program if the student is
 34 younger than ten (10) years of age on the date of expulsion; and

35 (C) The district may provide educational services to an
 36 expelled student who is older than ten (10) years of age in an alternative

1 education program.

2 (f)(1) A student who engages in conduct that contains the elements of
 3 the offense of criminal mischief in the first degree under § 5-38-203 or
 4 criminal mischief in the second degree under § 5-38-204 may be expelled at
 5 the district’s discretion if the conduct is punishable as a felony.

6 (2) The student shall be referred to the authorized officer of
 7 the juvenile court regardless of whether the student is expelled.

8 (g)(1) A school district shall inform each teacher of the conduct of a
 9 student who has engaged in any violation listed in this section.

10 (2) A teacher shall keep the information received in this
 11 subsection (g) confidential.

12 (3) The State Board for Education may revoke or suspend the
 13 license of a teacher who intentionally violates this subsection (g).

14 (h) Notwithstanding any other provisions of this section, a student
 15 who is younger than ten (10) years of age may not be expelled for engaging in
 16 conduct described by this section.

17
 18 6-18-1407. Conference – Hearing - Review.

19 (a) Not later than the third class day after the day on which a
 20 student is removed from class by the teacher under § 6-18-511 or by the
 21 school principal, the principal shall schedule a conference among the
 22 principal, a parent, a guardian or person in loco parentis of the student,
 23 the teacher removing the student from class, if any, and the student.

24 (b)(1) At the conference, the student is entitled to:

25 (A) Written or oral notice of the reasons for the removal;

26 (B) An explanation of the basis for the removal; and

27 (C) An opportunity to respond to the reasons for the
 28 removal.

29 (2) The student may not be returned to the regular classroom
 30 pending the conference.

31 (3) Following the conference, and whether or not each requested
 32 person is in attendance after valid attempts to require the person’s
 33 attendance, the principal shall order the placement of the student under § 6-
 34 18-511 and § 6-18-1405, as applicable, for a period consistent with the
 35 student code of conduct.

36 (c)(1) If a student’s placement in an alternative education program is

1 to extend beyond the end of the next grading period, a student's parent,
2 guardian, or person in loco parentis is entitled to notice of and an
3 opportunity to participate in a proceeding before the board of directors of
4 the school district, as provided by the policy of the board.

5 (2) Any decision of the board or the board's designee under
6 this subsection (c) is final and may not be appealed.

7 (d) Before it may place a student in an alternative education program
8 for a period that extends beyond the end of the school year, the school
9 district board shall determine that:

10 (1) The student's presence in the regular classroom program or
11 at the student's regular campus presents a danger of physical harm to the
12 student or to another individual; or

13 (2) The student has engaged in serious or persistent misbehavior
14 that violates the district's student code of conduct.

15 (e)(1) Before a student may be expelled under § 6-18-1406, the school
16 district board shall provide the student a hearing at which the student is
17 afforded appropriate due process as required by the federal constitution and
18 which the student's parent, guardian, or person in loco parentis is invited,
19 in writing, to attend.

20 (2) At the hearing, the student is entitled to be represented by
21 the student's parent, guardian, person in loco parentis, or another adult who
22 can provide guidance to the student and who is not an employee of the school
23 district.

24 (3) If the school district makes a good-faith effort to inform
25 the student and the student's parent, guardian, or person in loco parentis of
26 the time and place of the hearing, the district may hold the hearing
27 regardless of whether the student, the student's parent, guardian, or person
28 in loco parentis, or another adult representing the student attends.

29 (4) The decision of the board may be appealed by trial de novo
30 to a district court of the county in which the school district's central
31 administrative office is located.

32 (f) The school district board shall deliver to the student and the
33 student's parent, guardian, or person in loco parentis a copy of the order
34 placing the student in an alternative education program under § 6-18-511 and
35 § 6-18-1405, or expelling the student under § 6-18-1406.

36 (g) After a school district board notifies the parent, guardian, or

1 person in loco parentis of a student that the student has been expelled, the
2 parent, guardian, or person in loco parentis shall provide adequate
3 supervision of the student during the period of expulsion.

4
5 6-18-1408. Reports to local law enforcement -- Liability.

6 (a) The principal of a public school, or a person designated by the
7 principal under subsection (d) of this section, shall notify any school
8 district police department and the police department of the municipality in
9 which the school is located or, if the school is not in a municipality, the
10 sheriff of the county in which the school is located if the principal has
11 reasonable grounds to believe that any of the following activities occur in
12 school, on school property, or at a school-sponsored or school-related
13 activity on or off school property, whether or not the activity is
14 investigated by school security officers:

15 (1) Deadly conduct;

16 (2) A terroristic threat under § 5-13-301;

17 (3) The use, sale, or possession of a controlled substance, drug
18 paraphernalia, or marijuana under Arkansas Code Title 5, Chapter 64;

19 (4) The possession of any dangerous weapon under Arkansas Code
20 Title 5; or

21 (5) Conduct that may constitute a criminal offense under
22 Arkansas Code Title 5.

23 (b) A person who makes a notification under this section shall include
24 the name and address of each student the person believes may have
25 participated in the activity.

26 (c) A notification is not required under subsection (a) of this
27 section if the person reasonably believes that the activity does not
28 constitute a criminal offense.

29 (d) The principal of a public school may designate a school employee
30 who is under the supervision of the principal to make the reports required by
31 this section.

32 (e) The person who makes the notification required under subsection
33 (a) of this section shall also notify each instructional or support employee
34 of the school who has regular contact with a student whose conduct is the
35 subject of the notice.

36 (f) A person is not liable in civil damages for reporting in good

1 faith as required by this section.

3 6-18-1409. Report of drug offenses -- Liability.

4 A teacher, school administrator, or school employee is not liable in
 5 civil damages for reporting to a school administrator or governmental
 6 authority, in the exercise of professional judgment within the scope of the
 7 teacher's, administrator's, or employee's duties, a student whom the teacher
 8 suspects of using, passing, or selling on school property:

9 (1) Marijuana or a controlled substance under Arkansas Code
 10 Title 5, Chapter 64; or

11 (2) An alcoholic beverage.

13 6-18-1410. Information for educators.

14 Each school district shall provide each teacher and administrator with
 15 a copy of this subchapter and with a copy of the local policy relating to
 16 this subchapter.

18 6-18-1411. Emergency placement or expulsion.

19 (a) This subchapter does not prevent the principal from ordering the
 20 immediate placement of a student in the alternative program if the principal
 21 reasonably believes the student's behavior is so unruly, disruptive, or
 22 abusive that it seriously interferes with a teacher's ability to communicate
 23 effectively with the students in a class, with the ability of the student's
 24 classmates to learn, or with the operation of school or a school-sponsored
 25 activity.

26 (b) This subchapter does not prevent the principal from ordering the
 27 immediate expulsion of a student if the principal reasonably believes that
 28 action is necessary to protect persons or property from imminent harm.

29 (c)(1) At the time of an emergency placement or expulsion, the student
 30 shall be given oral notice of the reason for the action.

31 (2) Within a reasonable time after the emergency placement or
 32 expulsion, the student shall be accorded the appropriate due process as
 33 required under § 6-18-1407.

34 (3) If the student subject to the emergency placement or
 35 expulsion is a student with disabilities who receives special education
 36 services, the term of the student's emergency placement or expulsion is

1 subject to the requirements of the Individuals with Disabilities Education
2 Act, 20 U.S.C. Section 1415.

3 (d) A principal is not liable in civil damages for an emergency
4 placement under this section.

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