

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 1027

Short Title: Revise Suspension & Parental Notice Policies. (Public)

Sponsors: Representatives Morey, Quick, Gill, and Cervania (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Education - K-12, if favorable, Appropriations, if favorable, Rules, Calendar, and
Operations of the House

May 7, 2024

A BILL TO BE ENTITLED
AN ACT TO REVISE SUSPENSION POLICIES IN PUBLIC SCHOOL UNITS BY
DEFINING LENGTHS OF SUSPENSION, LIMITING THE USE OF SUSPENSION,
CREATING A RIGHT OF APPEAL FOR SHORT TERM SUSPENSION, DEFINING
WHAT CONSTITUTES REASONABLE PARENTAL NOTIFICATION OF
DISCIPLINARY ACTIONS, AND REQUIRING CHILD CARE PROVIDERS TO
REPORT DISCIPLINARY ACTIONS IN EARLY CHILD CARE SETTINGS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 115C-390.1 reads as rewritten:

"§ 115C-390.1. State policy and definitions.

...
(b) The following definitions apply in this Article:

(6a) Intermediate-term suspension. – The exclusion for more than 20, but no more than 42, cumulative school days of a student from school attendance for disciplinary purposes from the school to which the student was assigned at the time of the disciplinary action.

(6b) In-school suspension. – The exclusion of a student from the classroom for disciplinary purposes while the student remains on school grounds.

(7) Long-term suspension. – The exclusion for more than ~~40~~43 school days of a student from school attendance for disciplinary purposes from the school to which the student was assigned at the time of the disciplinary action. If the offense leading to the long-term suspension occurs before the final quarter of the school year, the exclusion shall be no longer than the remainder of the school year in which the offense was committed. If the offense leading to the long-term suspension occurs during the final quarter of the school year, the exclusion may include a period up to the remainder of the school year in which the offense was committed and the first semester of the following school year.

...
(9a) Reasonable attempt. – Initiating contact with a parent or guardian and, if unsuccessful, documenting each attempt to contact the parent or guardian at least once a day for a least three consecutive days. Documentation of communication attempts shall include the means of communication, date, and



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time. For the initial contact, school personnel must utilize at least two of the following means of communication:

- a. Telephone call.
- b. Electronic communication, including email or text messaging.
- c. Written communication, including certified mail or hand-delivery to the parent by school personnel.

...

- (12) Short-term suspension. – The exclusion of a student from school attendance for disciplinary purposes for up to ~~40-20~~ cumulative school days from the school to which the student was assigned at the time of the disciplinary action.

...

(b1) Notice to a parent under this Article shall be written in plain language and easy to understand. If the school is aware that a parent has a primary language other than English, the school shall provide a copy of the written notice in both the primary language of the parent and in English.

...."

SECTION 1.(b) G.S. 115C-390.2 reads as rewritten:

"§ 115C-390.2. Discipline policies.

...

(d) Governing body policies shall not allow students to be ~~long-term~~ suspended or expelled from school solely for truancy or tardiness offenses and shall not allow short term suspension of more than two days for such offenses.offenses. Governing boards are encouraged to implement truancy and tardiness policies that focus on intervention strategies aimed at addressing the root cause of absenteeism, promoting attendance through positive reinforcement and engagement.

...

(j) Governing bodies of public school units are encouraged to ~~include in their safe schools plans, adopted pursuant to G.S. 115C 105.47,~~ use research-based behavior management programs that take positive approaches to improving student behaviors.

...

(n) Governing bodies of public school units shall adopt a policy for in-school suspension. A student may not be placed in in-school suspension for more than five consecutive schools days per suspension period, for more than 15 suspension periods in a school year, or for more than 40 cumulative school days per school year. The school shall make a reasonable attempt to notify a student's parent that the student has been assigned to in-school suspension within one hour of the end of the school day during which the student was recommended for the suspension.

(o) Governing body policies shall not restrict physical activity, such as recess, as a form of punishment.

(p) Governing body policies shall not require a student to be detained for disciplinary purposes for more than one hour after the school day's official end.

(q) Governing body policies shall not authorize suspension for students in first through third grade except for incidents where the student is using or possessing illegal drugs or the student has committed a serious violation of the Code of Student Conduct that threatened the safety of themselves or others."

SECTION 1.(c) G.S. 115C-390.5 reads as rewritten:

"§ 115C-390.5. Short-term suspension.

...

(b) If a student's short-term suspensions accumulate to more than 10 days in a semester, to the extent the principal has not already done so, he or she shall invoke the mechanisms provided for in the applicable safe schools plan adopted pursuant to G.S. 115C-105.47(b)(5) and

~~(b)(6). A student may be placed on short-term suspension for no more than 10 consecutive school days per suspension period and for no more than 20 cumulative school days per school year.~~
...."

SECTION 1.(d) G.S. 115C-390.6 reads as rewritten:

"§ 115C-390.6. Short-term suspension procedures.

...
(c) The principal shall provide notice to the student's parent of any short-term suspension, including the reason for the suspension and a description of the alleged student conduct upon which the suspension is based. ~~The notice shall be given by the end of the workday during which the suspension is imposed when reasonably possible, but in no event more than two days after the suspension is imposed.~~ The principal shall make a reasonable attempt to notify the parent of the suspension within one hour of the end of the school day during which the student was assigned short-term suspension. The notice shall be given by certified mail, telephone, facsimile, e-mail, or any other method reasonably designed to achieve actual notice.

(d) ~~If English is the second language of the parent, the notice shall be provided in the parent's primary language, when the appropriate foreign language resources are readily available, and in English, and both versions shall be in plain language and shall be easily understandable.~~

(e) A student is ~~not~~ entitled to appeal the principal's decision to impose a short-term suspension to the superintendent or governing body of the public school unit. Further, ~~such a~~ only if (i) the current period of suspension the student is appealing is for three days or more and (ii) the student will have a cumulative 15 days or more of short-term suspension at the end of the suspension period being appealed. ~~The decision of the superintendent is not subject to judicial review.~~ Notwithstanding this subsection, the governing body, in its discretion, may provide students an opportunity for a review or appeal of a short-term suspension ~~to~~ from the superintendent ~~or to the governing body.~~"

SECTION 1.(e) Article 27 of Chapter 115C of the General Statutes is amended by adding the following two new sections to read:

"§ 115C-390.6A. Intermediate-term suspension.

(a) A principal may recommend to the superintendent the intermediate-term suspension of any student who willfully engages in conduct that violates a provision of the Code of Student Conduct that authorizes intermediate-term suspension.

(b) A student may be placed on intermediate-term suspension for no more than 21 consecutive school days per suspension period and for no more than 42 cumulative school days per school year.

(c) A student recommended for intermediate-term suspension shall be offered the opportunity for a hearing consistent with the provisions of G.S. 115C-390.6B.

(d) Only the superintendent has the authority to intermediate-term suspend a student. If the student recommended for intermediate-term suspension declines the opportunity for a hearing, the superintendent shall review the circumstances of the recommended suspension. Following such review, the superintendent may do any of the following:

(1) Impose the suspension if it is consistent with board policy.

(2) Impose another appropriate penalty authorized by board policy.

(3) Decline to impose any penalty.

(e) A student subject to intermediate-term suspension shall be provided the following:

(1) The opportunity to take instructional materials home for the duration of the suspension.

(2) Upon request, the right to receive all missed assignments.

(3) The opportunity to take quarterly, semester, or grading period examinations missed during the suspension period.

"§ 115C-390.6B. Intermediate-term suspension procedures.

(a) When a student is recommended by the principal for intermediate-term suspension, the principal shall make a reasonable attempt to give written notice to the student's parent within one hour of the end of the workday during which the suspension was recommended. The written notice shall provide at least the following information:

- (1) A description of the incident and the student's conduct that led to the intermediate-term suspension recommendation.
- (2) A reference to the provisions of the Code of Student Conduct that the student is alleged to have violated.
- (3) The specific process by which the parent may request a hearing to contest the decision, including the number of days within which the hearing must be requested.
- (4) The process by which a hearing will be held, including, at a minimum, the procedures described in G.S. 115C-390.8(e).
- (5) Notice that the parent is permitted to retain an attorney to represent the student in the hearing process.
- (6) The extent to which the governing body policy permits the parent to have an advocate, instead of an attorney, accompany the student to assist in the presentation of his or her appeal.
- (7) Notice that the parent has the right to review and obtain copies of the student's educational records before the hearing.
- (8) A reference to the governing body policy on the expungement of discipline records as required by G.S. 115C-402.

(b) No intermediate-term suspension shall be imposed on a student until an opportunity for a hearing has been offered to the student.

(c) To opt out of the hearing, the student must affirmatively decline the hearing in writing, and the superintendent shall follow the procedures described in G.S. 115C-390.6A(d).

(d) If a hearing is not declined, it shall be held and a decision issued before an intermediate-term suspension is imposed, in accordance with the following:

- (1) If the student or parent requests a postponement of the hearing, or if the hearing is requested beyond the time set for such request, the hearing shall be scheduled, but the student shall not have the right to return to school pending the hearing.
- (2) The student and parent shall be given reasonable notice of the time and place of the hearing. If neither the student nor parent appears for the hearing, the parent and student are deemed to have waived the right to a hearing, and the superintendent shall conduct the review required by G.S. 115C-390.6A(d).

(e) The hearing may be conducted by the superintendent or by a person or group of persons appointed by the superintendent to serve as a hearing officer or hearing panel. The superintendent shall not appoint an individual to serve as a hearing officer or on a hearing panel who is under the direct supervision of the principal recommending suspension. If the hearing is conducted by an appointed hearing officer or hearing panel, such officer or panel shall determine the relevant facts and credibility of witnesses based on the evidence presented at the hearing. Following the hearing, the superintendent shall make a final decision regarding the suspension. The superintendent shall adopt the hearing officer's or panel's factual determinations unless they are not supported by substantial evidence in the record.

(f) Intermediate-term suspension hearings shall be conducted in accordance with the requirements of G.S. 115C-390.8(e).

(g) Following the issuance of the decision, the superintendent shall authorize the student's return to school or impose the suspension reflected in the decision.

(h) A student may appeal an intermediate-term suspension decision to the local board of education in accordance with G.S. 115C-45(c) and policies adopted by the governing body of the

public school unit. Notwithstanding G.S. 115C-45(c), a student's appeal to the governing body of a decision upholding an intermediate-term suspension shall be heard and a final written decision issued in not more than 30 calendar days following the request for such appeal.

(i) Nothing in this section shall compel school officials to release names or other information that could allow the student or his or her representative to identify witnesses when such identification could create a safety risk for the witness.

(j) A decision of the governing body of the public school unit to uphold the intermediate-term suspension of a student is subject to judicial review in accordance with Article 4 of Chapter 150B of the General Statutes. The action must be brought within 30 days of the governing body's decision. A person seeking judicial review shall file a petition in the superior court of the county where the governing body made its decision. Local rules notwithstanding, petitions for judicial review of an intermediate-term suspension shall be set for hearing in the first succeeding term of superior court in the county following the filing of the certified copy of the official record."

SECTION 1.(f) G.S. 115C-390.7 reads as rewritten:

"§ 115C-390.7. Long-term suspension.

...

(b) Before the superintendent's imposition of a long-term suspension, the student must be provided an opportunity for a hearing consistent with G.S. 115C-390.8.

~~(c) If the student recommended for long-term suspension declines the opportunity for a hearing, the superintendent shall review the circumstances of the recommended long-term suspension. Following such review, the superintendent (i) may impose the suspension if it is consistent with board policies and appropriate under the circumstances, (ii) may impose another appropriate penalty authorized by board policy, or (iii) may decline to impose any penalty.~~

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SECTION 1.(g) G.S. 115C-390.8 reads as rewritten:

"§ 115C-390.8. Long-term suspension procedures.

(a) When a student is recommended by the principal for long-term suspension, the principal shall make a reasonable attempt to give written notice to the student's parent. The notice shall be provided to the student's parent by parent within one hour of the end of the workday during which the suspension was recommended when reasonably possible or as soon thereafter as practicable, recommended. The written notice shall provide at least the following information:

- (1) A description of the incident and the student's conduct that led to the long-term suspension recommendation.
- (2) A reference to the provisions of the Code of Student Conduct that the student is alleged to have violated.
- ~~(3) The specific process by which the parent may request a hearing to contest the decision, including the number of days within which the hearing must be requested.~~
- (4) The process by which a hearing will be held, including, at a minimum, the procedures described in subsection (e) of this section.
- (5) Notice that the parent is permitted to retain an attorney to represent the student in the hearing process.
- (6) The extent to which the governing body policy permits the parent to have an advocate, instead of an attorney, accompany the student to assist in the presentation of his or her appeal.
- (7) Notice that the parent has the right to review and obtain copies of the student's educational records before the hearing.
- (8) A reference to the governing body policy on the expungement of discipline records as required by G.S. 115C-402.

(b) ~~Written notice may be provided by certified mail, fax, e-mail, or any other written method reasonably designed to achieve actual notice of the recommendation for long term suspension. When school personnel are aware that English is not the primary language of the parent or guardian, the notice shall be written in both English and in the primary language of the parent or guardian when the appropriate foreign language resources are readily available. All notices described in this section shall be written in plain English, and shall include the following information translated into the dominant non-English language used by residents within the public school unit:~~

(1) ~~The nature of the document, i.e., that it is a long term suspension notice.~~

(2) ~~The process by which the parent may request a hearing to contest the long term suspension.~~

(3) ~~The identity and phone number of a school employee that the parent may call to obtain assistance in understanding the English language information included in the document.~~

(c) ~~No long-term suspension shall be imposed on a student until an opportunity for unless a formal hearing is provided to the student. If a hearing is timely requested, it shall be held and a decision issued before a long term suspension is imposed, except as otherwise provided in this subsection. The student and parent shall be given reasonable notice of the time and place of the hearing provided in accordance with the following:~~

(1) ~~If no hearing is timely requested, the superintendent shall follow the procedures described in G.S. 115C-390.7(c).~~

(2) ~~If the student or parent requests a postponement of the hearing, or if the hearing is requested beyond the time set for such request, the hearing shall be scheduled, but the student shall not have the right to return to school pending the hearing.~~

(3) The student and the parent shall be given reasonable notice of the time and place of the hearing. If neither the student nor parent appears for the scheduled hearing, after having been given reasonable notice of the time and place of the hearing, the parent and student are deemed to have waived the right to a hearing and the superintendent shall conduct the a review required by G.S. 115C-390.7(e) of the recommendation in accordance with the requirements of G.S. 115C-390.6A(d).

...."

SECTION 1.(h) G.S. 115C-390.11(a) reads as rewritten:

"(a) Upon recommendation of the superintendent, a governing body of a public school unit may expel any student 14 years of age or older whose continued presence in school constitutes a clear threat to the safety of other students or school staff. Prior to the expulsion of any student, the governing body shall conduct a hearing to determine whether the student's continued presence in school constitutes a clear threat to the safety of other students or school staff. The student shall be given reasonable notice of the recommendation in accordance with G.S. 115C-390.8(a) and (b), as well as reasonable notice of the time and place of the scheduled hearing. The following provisions apply:

...."

SECTION 1.(i) G.S. 115C-391.1 reads as rewritten:

"§ 115C-391.1. Permissible use of seclusion and restraint.

...

(j) Notice, Reporting, and Documentation. –

(1) Notice of procedures. – Each governing body of a public school unit shall provide copies of this section and all governing body policies developed to implement this section to school personnel and parents or guardians at the beginning of each school year.

- (2) Notice of specified incidents:
- a. School personnel shall promptly notify the principal or principal's designee of:
 1. Any use of aversive procedures.
 2. Any prohibited use of mechanical restraint.
 3. Any use of physical restraint resulting in observable physical injury to a student.
 4. Any prohibited use of seclusion or seclusion that exceeds 10 minutes or the amount of time specified on a student's behavior intervention plan.
 - b. ~~When a principal or principal's designee has personal knowledge or actual notice of any of the events described in this subdivision, the principal or principal's designee shall promptly notify the student's parent or guardian and will provide the name of a school employee the parent or guardian can contact regarding the incident.~~
- (3) As used in subdivision (2) of this subsection, "promptly notify" means by the end of the workday during which the incident occurred when reasonably possible, but in no event later than the end of following workday.
- (4) The principal or the principal's designee shall make a reasonable attempt to notify a parent or guardian of the student shall be provided with a written incident report for any incident reported under this section within a reasonable period of time, but in no event later than 30 days after the incident. one hour of the end of the school day during which the incident occurred.
- (4a) A parent notified under subdivision (4) of this subsection shall receive a written incident report within a reasonable amount of time but in no event later than 30 days after the incident. The written incident report shall include:
- a. The date, time of day, location, duration, and description of the incident and interventions.
 - b. The events or events that led up to the incident.
 - c. The nature and extent of any injury to the student.
 - d. The name of a school employee the parent or guardian can contact regarding the incident.

...."

SECTION 1.(j) G.S. 115C-391.2 is amended by adding a new subsection to read:

"(c) The school shall make a reasonable attempt to notify a student's parent before any student search or interrogation is conducted and, if unsuccessful, within one hour of the end of the school day during which the search was conducted."

SECTION 2. Part 10B of Article 3 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ 143B-168.10L. Disciplinary actions in early child care settings.

All early child care providers, including public school units, as defined in G.S. 115C-5, and private schools offering prekindergarten services in this State, shall annually report to the Department of Public Instruction detailed data on suspensions and expulsions. The data shall include (i) the number of suspension or expulsion actions taken, (ii) the reasons for the suspension or expulsion, (iii) the duration of the suspension or expulsion, and (iv) the demographic information of the students suspended or expelled, appropriately redacted to adhere to applicable privacy laws. The Department of Public Instruction shall analyze the data collected pursuant to this section to identify patterns and inform strategies for minimizing suspensions and expulsions, while emphasizing non-exclusionary disciplinary practices. The Department of Public Instruction shall issue any specific reporting guidelines and formats on data collected under this

1 section, consistent with any federal law and data the Department of Public Instruction may
2 currently collect on disciplinary actions in early child care settings."

3 **SECTION 3.** There is appropriated from the General Fund to the Department of
4 Public Instruction the sum of two million dollars (\$2,000,000) in nonrecurring funds for the
5 2024-2025 fiscal year to assist the Department in developing and distributing guidance to public
6 school units on how to implement the requirements of this act.

7 **SECTION 4.** This act becomes effective July 1, 2024, and applies beginning with
8 the 2024-2025 school year.