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SENATE BILL NO. 441

Offered January 8, 2014

Prefiled January 7, 2014

A BILL to amend and reenact §§ 22.1-277.04, 22.1-277.05, and 22.1-277.06 of the Code of Virginia, relating to public schools; appeal process for suspensions and expulsions.

Patron—Garrett

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-277.04, 22.1-277.05, and 22.1-277.06 of the Code of Virginia are amended and reenacted as follows:

§ 22.1-277.04. Short-term suspension; procedures; readmission.

A pupil may be suspended for not more than ~~ten~~ 10 school days by either the school principal, any assistant principal, or, in their absence, any teacher. The principal, assistant principal, or teacher may suspend the pupil after giving the pupil oral or written notice of the charges against him and, if he denies them, an explanation of the facts as known to school personnel and an opportunity to present his version of what occurred. In the case of any pupil whose presence poses a continuing danger to persons or property, or whose presence is an ongoing threat of disruption, the pupil may be removed from school immediately and the notice, explanation of facts, and opportunity to present his version shall be given as soon as practicable thereafter.

Upon suspension of any pupil, the principal, assistant principal, or teacher responsible for such suspension shall report the facts of the case in writing to the division superintendent or his designee and the parent of the pupil suspended. The division superintendent or his designee shall review forthwith the action taken by the principal, assistant principal, or teacher upon a petition for such review by any party in interest and confirm or disapprove such action based on an examination of the record of the pupil's behavior.

The decision of the division superintendent or his designee may be appealed to the school board or a committee thereof in accordance with regulations of the school board; ~~however, the decision of the division superintendent or his designee shall be final if so prescribed by school board regulations. Such appeal shall be decided by the school board within 30 days.~~

The school board shall require that any oral or written notice to the parent of a student who is suspended from school attendance for not more than ~~ten~~ 10 days include notification of the length of the suspension, information regarding the availability of community-based educational programs, alternative education programs or other educational options, and of the student's right to return to regular school attendance upon the expiration of the suspension. The costs of any community-based educational program, or alternative education program or educational option, which is not a part of the educational program offered by the school division, shall be borne by the parent of the student.

§ 22.1-277.05. Long-term suspensions; procedures; readmission.

A. A pupil may be suspended from attendance at school for more than ~~ten~~ 10 days after providing written notice to the pupil and his parent of the proposed action and the reasons therefor and of the right to a hearing before the school board, or a committee thereof, or the superintendent or his designee, in accordance with regulations of the school board. ~~If the regulations provide for a hearing by the superintendent or his designee, the~~ The regulations shall also provide for an appeal of the decision of the committee of the school board, or the superintendent or his designee, to the full school board. Such appeal shall be decided by the school board within ~~thirty~~ 30 days.

If the regulations provide for a hearing by a committee of the school board, the regulations shall also provide that such committee may confirm or disapprove the suspension of a student. Any such committee of the school board shall be composed of at least three members. If the committee's decision is not unanimous, the pupil or his parent may appeal the committee's decision to the full school board. Such appeal shall be decided by the school board within thirty days.

B. A school board shall include in the written notice of a suspension for more than ~~ten~~ 10 days required by this section, notification of the length of the suspension. In the case of a suspension for more than ~~ten~~ 10 days, such written notice shall provide information concerning the availability of community-based educational, alternative education, or intervention programs. Such notice shall also state that the student is eligible to return to regular school attendance upon the expiration of the suspension or to attend an appropriate alternative education program approved by the school board during or upon the expiration of the suspension. The costs of any community-based educational,

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59 alternative education, or intervention program that is not a part of the educational program offered by
60 the school division that the student may attend during his suspension shall be borne by the parent of the
61 student.

62 Nothing in this section shall be construed to prohibit the school board from permitting or requiring
63 students suspended pursuant to this section to attend an alternative education program provided by the
64 school board for the term of such suspension.

65 **§ 22.1-277.06. Expulsions; procedures; readmission.**

66 A. Pupils may be expelled from attendance at school after written notice to the pupil and his parent
67 of the proposed action and the reasons therefor and of the right to a hearing before the school board or
68 a committee thereof in accordance with regulations of the school board.

69 If the regulations provide for a hearing by a committee of the school board, the regulations shall also
70 provide ~~that such committee may confirm or disapprove the expulsion of a student. Any such committee~~
71 ~~of the school board shall be composed of at least three members. If the committee's decision is not~~
72 ~~unanimous, the pupil or his parent may appeal the committee's~~ *for an appeal of the* decision to the full
73 school board. Such appeal shall be decided by the school board within 30 days.

74 The regulations shall also provide for subsequent confirmation or disapproval of the proposed
75 expulsion by the school board, or a committee thereof, as may be provided in regulation, regardless of
76 whether the pupil exercised the right to a hearing.

77 B. The written notice required by this section shall include notification of the length of the expulsion
78 and shall provide information to the parent of the student concerning the availability of
79 community-based educational, training, and intervention programs. Such notice shall state further
80 whether or not the student is eligible to return to regular school attendance, or to attend an appropriate
81 alternative education program approved by the school board, or an adult education program offered by
82 the school division, during or upon the expiration of the expulsion, and the terms or conditions of such
83 readmission. The costs of any community-based educational, training, or intervention program that is not
84 a part of the educational program offered by the school division that the student may attend during his
85 expulsion shall be borne by the parent of the student.

86 Nothing in this section shall be construed to prohibit the school board from permitting or requiring
87 students expelled pursuant to this section to attend an alternative education program provided by the
88 school board for the term of such expulsion.

89 If the school board determines that the student is ineligible to return to regular school attendance or
90 to attend during the expulsion an alternative education program or an adult education program in the
91 school division, the written notice shall also advise the parent of such student that the student may
92 petition the school board for readmission to be effective one calendar year from the date of his
93 expulsion, and of the conditions, if any, under which readmission may be granted.

94 School boards shall establish, by regulation, a schedule pursuant to which such students may apply
95 and reapply for readmission to school. Such schedule shall be designed to ensure that any initial petition
96 for readmission will be reviewed by the school board or a committee thereof, or the division
97 superintendent, and, if granted, would enable the student to resume school attendance one calendar year
98 from the date of the expulsion. If the division superintendent or a committee of the school board denies
99 such petition, the student may petition the school board for review of such denial.

100 C. Recommendations for expulsion for actions other than those specified in §§ 22.1-277.07 and
101 22.1-277.08 shall be based on consideration of the following factors:

- 102 1. The nature and seriousness of the violation;
- 103 2. The degree of danger to the school community;
- 104 3. The student's disciplinary history, including the seriousness and number of previous infractions;
- 105 4. The appropriateness and availability of an alternative education placement or program;
- 106 5. The student's age and grade level;
- 107 6. The results of any mental health, substance abuse, or special education assessments;
- 108 7. The student's attendance and academic records; and
- 109 8. Such other matters as he deems appropriate.

110 No decision to expel a student shall be reversed on the grounds that such factors were not
111 considered.

112 Nothing in this subsection shall be deemed to preclude a school board from considering any of these
113 factors as "special circumstances" for purposes of §§ 22.1-277.07 and 22.1-277.08.