

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

COMMITTEE SUBSTITUTE
FOR
SENATE BILL 1521

By: Leftwich and Coffee

COMMITTEE SUBSTITUTE

An Act relating to schools; amending 70 O.S. 2001, Sections 6-101.13, 6-101.46, and 24-101.3, which relate to administrator due process procedures, disciplinary action procedures, and out-of-school suspensions; deleting redundant language; authorizing certain school district boards of education to utilize hearing officer to conduct certain hearings; and declaring an emergency.

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

SECTION 1. AMENDATORY 70 O.S. 2001, Section 6-101.13, is amended to read as follows:

Section 6-101.13 Whenever the ~~local~~ board of education or the administration of a school district shall determine that the dismissal or nonreemployment of a full-time certified administrator from ~~his~~ an administrative position within the school district should be effected, the administrator shall be entitled to the following due process procedures:

1. A statement shall be submitted to the administrator in writing prior to the dismissal or nonreemployment which states the proposed action, lists the reasons for effecting the action, and notifies the administrator of ~~his~~ the right to a hearing before the ~~local~~ board of education prior to the action; ~~and~~

2. A hearing before the ~~local~~ board of education shall be granted upon the request of such administrator prior to the dismissal or nonreemployment. A request for a hearing shall be submitted to the board of education not later than ten (10) days

after the administrator has been notified of the proposed action;
and

3. A board of education of a school district with an average daily membership of thirty thousand (30,000) or more may utilize a hearing officer appointed by the board to conduct any hearing and make any decision required by the provisions of this section.

Failure of the administrator to request a hearing before the ~~local~~ board of education within ten (10) days after receiving the written statement shall constitute a waiver of the right to a hearing. No decision of the ~~local~~ board of education concerning the dismissal or nonreemployment of a full-time certified administrator shall be effective until the administrator has been afforded due process as specified in this section. The decision of the ~~local~~ board of education concerning the dismissal or nonreemployment, following the hearing, shall be final.

SECTION 2. AMENDATORY 70 O.S. 2001, Section 6-101.46, is amended to read as follows:

Section 6-101.46 A. After any suspension or prior to any demotion, termination or nonreemployment, a support employee shall receive notice of the right to a hearing. The hearing shall be conducted by the ~~local~~ board of education. All notices shall be by certified mail, with the postmark used to determine the timeliness of the notice. Failure of the employee to request a hearing within ten (10) working days of such notice shall be considered a waiver of the employee's right to a hearing.

B. Nonreemployment shall mean nonrenewal of a support employee's contract upon expiration of the contract.

C. If an employee is to be suspended for a period to exceed ten (10) days, the superintendent of the district shall initiate proceedings for termination and shall follow the procedures set forth in subsection A of this section. However, in a case involving a criminal charge or indictment, the suspension may be delayed until

the employee's case is adjudicated at the trial. Nothing in this act shall prevent the school board from proceeding against the employee during or after the suspension for termination as provided in this act.

D. A board of education of a school district with an average daily membership of thirty thousand (30,000) or more may utilize a hearing officer appointed by the board to conduct any hearing and make any decision required by the provisions of this section.

SECTION 3. AMENDATORY 70 O.S. 2001, Section 24-101.3, is amended to read as follows:

Section 24-101.3 A. Any student who is guilty of an act described in paragraph 1 of subsection C of this section may be suspended out-of-school in accordance with the provisions of this section. Each school district board of education shall adopt a policy with procedures which provides for out-of-school suspension of students. The policy shall address the term of the out-of-school suspension, provide an appeals process as described in subsection B of this section, and provide that before a student is suspended out-of-school, the school or district administration shall consider and apply, if appropriate, alternative in-school placement options that are not to be considered suspension, such as placement in an alternative school setting, reassignment to another classroom, or in-school detention. The policy shall address education for students subject to the provisions of subsection D of this section and whether participation in extracurricular activities shall be permitted.

B. 1. Students suspended out-of-school for ten (10) days or less shall have the right to appeal the decision of the administration as provided in the policy required in subsection A of this section. The policy shall specify whether appeals for short-term suspensions as provided in this subsection shall be to a local committee composed of district administrators or teachers or both,

or to the district board of education. Upon full investigation of the matter, the committee or board shall determine the guilt or innocence of the student and the reasonableness of the term of the out-of-school suspension. If the policy requires appeals for short-term suspensions to a committee, the policy adopted by the board may, but is not required to, provide for appeal of the committee's decision to the board.

2. Students suspended out-of-school for more than ten (10) days and students suspended pursuant to the provisions of paragraph 2 of subsection C of this section may request a review of the suspension with the administration of the district. If the administration does not withdraw the suspension, the student shall have the right to appeal the decision of the administration to the district board of education. Except as otherwise provided for in paragraph 2 of subsection C of this section, no out-of-school suspension shall extend beyond the current semester and the succeeding semester. Upon full investigation of the matter, the board shall determine the guilt or innocence of the student and the reasonableness of the term of the out-of-school suspension. The decision of the district board of education shall be final. A board of education of a school district with an average daily membership of thirty thousand (30,000) or more may utilize a hearing officer appointed by the board to conduct any hearing and make any decision required by the provisions of this subsection.

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

- a. violation of a school regulation,
- b. immorality,
- c. adjudication as a delinquent for an offense that is not a violent offense. For the purposes of this section, "violent offense" shall include those

- offenses listed as the exceptions to the term "nonviolent offense" as specified in Section 571 of Title 57 of the Oklahoma Statutes. "Violent offense" shall include the offense of assault with a dangerous weapon but shall not include the offense of assault,
- d. possession of an intoxicating beverage, low-point beer, as defined by Section 163.2 of Title 37 of the Oklahoma Statutes, or missing or stolen property if the property is reasonably suspected to have been taken from a student, a school employee, or the school during school activities, and
 - e. possession of a dangerous weapon or a controlled dangerous substance, as defined in the Uniform Controlled Dangerous Substances Act. Possession of a firearm shall result in out-of-school suspension as provided in paragraph 2 of this subsection.

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

D. At its discretion a school district may provide an education plan for students suspended out-of-school for five (5) or ~~less~~ fewer days pursuant to the provisions of this subsection. The following provisions shall apply to students who are suspended out-of-school for more than five (5) days and who are guilty of acts listed in subparagraphs a, b, c and d of paragraph 1 of subsection C of this

section. Upon the out-of-school suspension, the parent or guardian of a student suspended out-of-school pursuant to the provisions of this subsection shall be responsible for the provision of a supervised, structured environment in which the parent or guardian shall place the student and bear responsibility for monitoring the student's educational progress until the student is readmitted into school. The school administration shall provide the student with an education plan designed for the eventual reintegration of the student into school which provides only for the core units in which the student is enrolled. A copy of the education plan shall also be provided to the student's parent or guardian. For the purposes of this section, the core units shall consist of the minimum English, mathematics, science, social studies and art units required by the State Board of Education for grade completion in grades kindergarten through eight and for high school graduation in grades nine through twelve. The plan shall set out the procedure for education and shall address academic credit for work satisfactorily completed.

E. A student who has been suspended out-of-school from a public or private school in the State of Oklahoma or another state for a violent act or an act showing deliberate or reckless disregard for the health or safety of faculty or other students shall not be entitled to enroll in a public school of this state, and no public school shall be required to enroll the student, until the terms of the suspension have been met or the time of suspension has expired.

F. No public school of this state shall be required to provide education services in the regular school setting to any student who has been adjudicated as a delinquent for an offense defined in Section 571 of Title 57 of the Oklahoma Statutes as an exception to a nonviolent offense or convicted as an adult of an offense defined in Section 571 of Title 57 of the Oklahoma Statutes as an exception to a nonviolent offense or who has been removed from a public or private school in the State of Oklahoma or another state by

administrative or judicial process for a violent act or an act showing deliberate or reckless disregard for the health or safety of faculty or other students until the school in which the student is subsequently enrolled determines that the student no longer poses a threat to self, other students or faculty. Until the school in which such student subsequently enrolls or re-enrolls determines that the student no longer poses a threat to self, other students or faculty, the school may provide education services through an alternative school setting, home-based instruction, or other appropriate setting.

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

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

I. No school board, administrator or teacher may be held civilly liable for any action taken in good faith which is authorized by this section.

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