

STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

HOUSE BILL HB1298

By: Turner

AS INTRODUCED

An Act relating to schools; amending 70 O.S. 24-101.3, which relates to out-of-school student suspensions; modifying circumstances under which a school district may provide certain education plans; deleting requirement of art as a core unit; providing for certain grades when appropriate; requiring removal of disruptive students from the classroom under certain circumstances; amending 70 O.S. 2001, Section 18-107, which relates to school finance; specifying inclusion of certain students suspended out-of-school in average daily membership; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 70 O.S. 2001, Section 24-101.3, is amended to read as follows:

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.

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 pursuant to the provisions of this subsection for students suspended out-of-school ~~for five (5) or less 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 provision of an education plan to a student during the out-of-school suspension, the parent or guardian of a the 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 education plan provided by the school administration shall ~~provide the student with an education plan~~ be designed for the eventual reintegration of to reintegrate the student into school ~~which provides~~ and shall address 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, and 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. Regardless of whether or not a student is provided an education plan, students suspended out-of-school for ten (10) days or less may be given zeros in grades when deemed appropriate by the teacher.

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 disruptive student shall be removed from a teacher's class upon the request of that teacher, and may be suspended out-of-school. 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 2. AMENDATORY 70 O.S. 2001, Section 18-107, is amended to read as follows:

Section 18-107. As used in this title:

1. "Average Daily Attendance" (ADA) means the legal average number of pupils, early childhood education programs through grade twelve, in a school district during a school year as determined pursuant to the provisions of Section 18-111 of this title. A day of school for early childhood education programs and kindergarten shall be at least two and one-half (2 1/2) hours and, for early childhood education, may be six (6) hours.

2. "Average Daily Membership" (ADM) means the average number of pupils present and absent in a school district during a school year. Average Daily Membership shall be calculated by dividing the sum of the ~~pupil's~~ pupils' total days present and total days absent by the number of days taught. Provided, a pupil who has been absent without excuse ten (10) consecutive days shall be taken off the roll beginning the eleventh day and thereafter shall not be considered in a district's average daily membership calculation until the pupil is placed on the roll in the district. For the purpose of this paragraph, consecutive days means days for which enrollment is recorded. Students suspended out-of-school for whom the school district is providing an education plan pursuant to the provisions of subsection D of Section 24-101.3 of this title shall be considered present for the purpose of inclusion in the average daily membership of the district.

3. "Total Adjusted Assessed Valuation" means the sum of public service property assessed valuation, personal property assessed

valuation and real property assessed valuation as adjusted pursuant to the provisions of Section 18-109.1 of this title.

4. "Eighty-five percent (85%) of maximum allowable", for the purpose of assessing class size penalty pursuant to Sections 18-113.1 and 18-113.2 of this title, means eighty-five percent (85%) of ten percent (10%) of the preceding year's net assessed valuation of a school district. The calculation of indebtedness as provided for in paragraph a of subsection G F of Section 18-113.1 ~~and~~, subparagraph a of paragraph 4 of subsection A of Section 18-113.2 and paragraph 1 of subsection I of Section 18-113.3 of this title shall include the outstanding principal amount of bonds issued by the school district plus the principal amount of any bonds authorized by a vote of the people for issuance but not yet issued by the school district.

SECTION 3. This act shall become effective July 1, 2003.

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.

49-1-5039

DT

01/16/03