

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

HOUSE BILL 1989

By: Nollan

AS INTRODUCED

An Act relating to student suspension; amending Section 8, Chapter 7, 1st Extraordinary Session, O.S.L. 2013, as amended by Section 1, Chapter 135, O.S.L. 2015 (70 O.S. Supp. 2018, Section 6-149.7), which relates to the School Protection Act; ending mandatory out-of-school suspension; permitting out-of-school suspension for certain students; authorizing use of restorative practices in lieu of out-of-school suspension; amending 70 O.S. 2011, Section 24-101.3, as last amended by Section 1, Chapter 90, O.S.L. 2016 (70 O.S. Supp. 2018, Section 24-101.3), which relates to out-of-school suspension; updating references; requiring policy to re-engage students who are suspended out-of-school; directing school district to consider using restorative practices; allowing certain agreement to be signed by the offender; listing examples of restorative practices; prescribing situations where restorative practices should be considered; requiring options that are accessible to all students; updating citation; modifying certain suspension to be permitted instead of mandatory; directing creation of a threat assessment team; providing for membership of team; authorizing team to use certain tools and records; requiring written approval for certain student to return to classroom; mandating ongoing trauma-informed professional development; including option for parents to attend trauma-informed training; and providing an effective date.

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

SECTION 1. AMENDATORY Section 8, Chapter 7, 1st

Extraordinary Session, O.S.L. 2013, as amended by Section 1, Chapter 135, O.S.L. 2015 (70 O.S. Supp. 2018, Section 6-149.7), is amended to read as follows:

Section 6-149.7 A. No student enrolled in a school shall assault, attempt to cause physical bodily injury, or act in a manner that could reasonably cause bodily injury to an education employee or a person who is volunteering for the school. Any student in grades six through twelve who violates the provisions of this section ~~shall~~ may be subject to out-of-school suspension as provided for in Section 24-101.3 of this title. This section shall be in addition to and does not limit the criminal liability of a person who causes or commits an assault, battery, or assault and battery upon a school employee as provided for in Section 650.7 of Title 21 of the Oklahoma Statutes.

B. No education employee shall be liable for the use of necessary and reasonable force to control and discipline a student during the time the student is in attendance at the school or in transit to or from the school, or any other function authorized by the school district.

C. In lieu of out-of-school suspension as provided for in subsection A of this section, a school district shall consider using restorative practices as described in Section 24-101.3 of this title.

1 SECTION 2. AMENDATORY 70 O.S. 2011, Section 24-101.3, as
2 last amended by Section 1, Chapter 90, O.S.L. 2016 (70 O.S. Supp.
3 2018, Section 24-101.3), is amended to read as follows:

4 Section 24-101.3 A. Any student who is guilty of an act
5 described in paragraph 1 of subsection ~~C~~ E of this section may be
6 suspended out-of-school in accordance with the provisions of this
7 section. Each school district board of education shall adopt a
8 policy with procedures which provides for out-of-school suspension
9 of students. The policy shall address the term of the out-of-school
10 suspension, provide an appeals process as described in subsection B
11 of this section, and provide that before a student is suspended out-
12 of-school, the school or district administration shall consider and
13 apply, if appropriate, alternative in-school placement options that
14 are not to be considered suspension, such as placement in an
15 alternative school setting, reassignment to another classroom, or
16 in-school detention. The policy shall address education for
17 students subject to the provisions of subsection ~~D~~ F of this section
18 and whether participation in extracurricular activities shall be
19 permitted. The policy shall facilitate the re-engagement of
20 students who are suspended out-of-school or returning from an
21 alternative school setting as described in paragraph 2 of subsection
22 H of this section.

23 B. 1. Students suspended out-of-school for ten (10) or fewer
24 days shall have the right to appeal the decision of the

1 administration as provided in the policy required in subsection A of
2 this section. The policy shall specify whether appeals for short-
3 term suspensions as provided in this subsection shall be to a local
4 committee composed of district administrators or teachers or both,
5 or to the district board of education. Upon full investigation of
6 the matter, the committee or board shall determine the guilt or
7 innocence of the student and the reasonableness of the term of the
8 out-of-school suspension. If the policy requires appeals for short-
9 term suspensions to a committee, the policy adopted by the board
10 may, but is not required to, provide for appeal of the committee's
11 decision to the board.

12 2. Students suspended out-of-school for more than ten (10) days
13 and students suspended pursuant to the provisions of paragraph 2 of
14 subsection E of this section may request a review of the
15 suspension with the administration of the district. If the
16 administration does not withdraw the suspension, the student shall
17 have the right to appeal the decision of the administration to the
18 district board of education. Except as otherwise provided for in
19 paragraph 2 of subsection E of this section, no out-of-school
20 suspension shall extend beyond the current semester and the
21 succeeding semester. Upon full investigation of the matter, the
22 board shall determine the guilt or innocence of the student and the
23 reasonableness of the term of the out-of-school suspension. A board
24 of education may conduct the hearing and render the final decision

1 or may appoint a hearing officer to conduct the hearing and render
2 the final decision. The decision of the district board of education
3 or the hearing officer, if applicable, shall be final.

4 C. In lieu of out-of-school suspension as provided for in
5 subsection A of this section, a school district shall consider using
6 restorative practices as an alternative or in addition to suspension
7 that provide the offender the opportunity to accept responsibility
8 for the harm caused to those affected by the misconduct and to
9 participate in setting consequences to repair the harm. The
10 selected consequences may be incorporated into an agreement that
11 sets time limits for completion and is signed by the offender.

12 Restorative practices may include:

13 1. Requiring the student to apologize, participate in community
14 service or pay restitution;

15 2. Requiring the student to participate in in-service
16 activities for a specified number of days; or

17 3. Requiring the student to be assessed by a licensed mental
18 health professional and receive counseling or treatment if
19 recommended by the licensed mental health professional.

20 D. Restorative practices shall be the first consideration to
21 remediate offenses such as interpersonal conflicts, bullying, verbal
22 and physical conflicts, theft, damage to property, class disruption,
23 harassment and cyberbullying. School districts shall provide
24 options for restorative practices that are accessible to all

1 students regardless of income level or family resources, such as
2 offering a restoration program in a school setting.

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

- 6 a. violation of a school regulation,
- 7 b. possession of an ~~intoxicating~~ alcoholic beverage, or
8 low-point beer, as defined by Section ~~163.2~~ 1-103 of
9 Title ~~37~~ 37A of the Oklahoma Statutes, or missing or
10 stolen property if the property is reasonably
11 suspected to have been taken from a student, a school
12 employee, or the school during school activities, and
- 13 c. possession of a dangerous weapon or a controlled
14 dangerous substance while on or within two thousand
15 (2,000) feet of public school property, or at a school
16 event, as defined in the Uniform Controlled Dangerous
17 Substances Act. Possession of a firearm shall result
18 in out-of-school suspension as provided in paragraph 2
19 of this subsection.

20 2. Any student found in possession of a firearm while on any
21 public school property or while in any school bus or other vehicle
22 used by a public school for transportation of students or teachers
23 shall be suspended out-of-school for a period of not less than one
24 (1) year, to be determined by the district board of education

1 pursuant to the provisions of this section. The term of the
2 suspension may be modified by the district superintendent on a case-
3 by-case basis. For purposes of this paragraph the term "firearm"
4 shall mean and include all weapons as defined by 18 U.S.C., Section
5 921.

6 3. Any student in grades six through twelve found to have
7 assaulted, attempted to cause physical bodily injury, or acted in a
8 manner that could reasonably cause bodily injury to a school
9 employee or a person volunteering for a school as prohibited
10 pursuant to Section ~~6-146~~ 6-149.7 of this title ~~shall~~ may be
11 suspended for the remainder of the current semester and the next
12 consecutive semester, to be determined by the board of education
13 pursuant to the provisions of this section. The term of the
14 suspension may be modified by the district superintendent on a case-
15 by-case basis.

16 ~~D.~~ F. At its discretion a school district may provide an
17 education plan for students suspended out-of-school for five (5) or
18 fewer days pursuant to the provisions of this subsection. The
19 following provisions shall apply to students who are suspended out-
20 of-school for more than five (5) days and who are guilty of acts
21 listed in subparagraphs a and b of paragraph 1 of subsection ~~E~~ E of
22 this section. Upon the out-of-school suspension, the parent or
23 guardian of a student suspended out-of-school pursuant to the
24 provisions of this subsection shall be responsible for the provision

1 of a supervised, structured environment in which the parent or
2 guardian shall place the student and bear responsibility for
3 monitoring the student's educational progress until the student is
4 readmitted into school. The school administration shall provide the
5 student with an education plan designed for the eventual
6 reintegration of the student into school which provides only for the
7 core units in which the student is enrolled. A copy of the
8 education plan shall also be provided to the student's parent or
9 guardian. For the purposes of this section, the core units shall
10 consist of the minimum English, mathematics, science, social studies
11 and art units required by the State Board of Education for grade
12 completion in grades kindergarten through eight and for high school
13 graduation in grades nine through twelve. The plan shall set out
14 the procedure for education and shall address academic credit for
15 work satisfactorily completed.

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

1 ~~F.~~ H. 1. No public school of this state shall be required to
2 provide education services in the regular school setting to any
3 student who has been:

4 a. adjudicated as a delinquent for an offense defined as
5 a violent crime in Section 571 of Title 57 of the
6 Oklahoma Statutes,

7 b. convicted as an adult of an offense defined as a
8 violent crime in Section 571 of Title 57 of the
9 Oklahoma Statutes,

10 c. ~~who has been~~ removed from a public or private school
11 in the State of Oklahoma or another state by
12 administrative or judicial process for a violent act
13 or an act showing deliberate or reckless disregard for
14 the health or safety of faculty or other students,

15 d. suspended as provided for in paragraph 3 of subsection
16 ~~C~~ E of this section, or

17 e. ~~has been~~ removed from a public or private school in
18 the state or another state by administrative or
19 judicial process for an act of using electronic
20 communication, as defined in Section 24-100.3 of this
21 title, with intent to terrify, intimidate or harass,
22 or threaten to inflict injury or physical harm to
23 faculty or other students.

1 2. The school in which a student as described in paragraph 1 of
2 this subsection is subsequently enrolled may elect to not provide
3 education services in the regular school setting until the school
4 determines that the student no longer poses a threat to self, other
5 students or school district faculty or employees. Until the school
6 in which such student subsequently enrolls or re-enrolls determines
7 that the student no longer poses a threat to self, other students or
8 school district faculty or employees, the school may provide
9 education services through an alternative school setting, home-based
10 instruction, or other appropriate setting. If the school provides
11 education services to the student at a district school facility, the
12 school shall notify any student or school district faculty or
13 employee victims of the student, when known, and shall ensure that
14 the student will not be allowed in the general vicinity of or
15 contact with a victim of the student, provided the victim notifies
16 the school of the victim's desire to refrain from contact with the
17 offending student.

18 3. As part of the determination of threat, the school district
19 shall create a threat assessment team that may include as
20 appropriate the student, parent or guardian, treatment
21 professionals, law enforcement or a school resource officer,
22 governmental agencies and other professionals involved in the care
23 of the child. The threat assessment team may use a validated risk
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1 assessment screener and consider rehabilitation progress records,
2 such as mental health consultations and probation records.

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

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

14 ~~I.~~ K. At its discretion, a school district may require a
15 student guilty of acts listed in subparagraph a or b of paragraph 1
16 of subsection ~~G~~ E of this section to complete intervention and
17 prevention programs as provided by designated Youth Service
18 Agencies, if available.

19 ~~J.~~ L. No school board, administrator or teacher may be held
20 civilly liable for any action taken in good faith which is
21 authorized by this section.

22 M. School districts shall make efforts to provide ongoing
23 trauma-informed professional development to teachers,
24 administrators, school board members, school resource officers and

1 staff on the adverse consequences of school exclusion and justice-
2 system involvement and culturally responsive disciplinary methods
3 that promote positive and healthy school climates. Any trauma-
4 informed training provided by schools shall include, to the extent
5 possible, the option for parents to attend.

6 SECTION 3. This act shall become effective November 1, 2019.

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