Senate Engrossed House Bill

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
House of Representatives
Forty-ninth Legislature
Second Regular Session
2010

CHAPTER 311

HOUSE BILL 2281

AN ACT

AMENDING TITLE 15, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 15-111 AND 15-112; AMENDING SECTION 15-843, ARIZONA REVISED STATUTES; RELATING TO SCHOOL CURRICULUM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Title 15, chapter 1, article 1, Arizona Revised Statutes, is amended by adding sections 15-111 and 15-112, to read:

15-111. Declaration of policy

THE LEGISLATURE FINDS AND DECLARES THAT PUBLIC SCHOOL PUPILS SHOULD BE TAUGHT TO TREAT AND VALUE EACH OTHER AS INDIVIDUALS AND NOT BE TAUGHT TO RESENT OR HATE OTHER RACES OR CLASSES OF PEOPLE.

15-112. Prohibited courses and classes; enforcement

A. A SCHOOL DISTRICT OR CHARTER SCHOOL IN THIS STATE SHALL NOT INCLUDE IN ITS PROGRAM OF INSTRUCTION ANY COURSES OR CLASSES THAT INCLUDE ANY OF THE FOLLOWING:

1. PROMOTE THE OVERTHROW OF THE UNITED STATES GOVERNMENT.

2. PROMOTE RESENTMENT TOWARD A RACE OR CLASS OF PEOPLE.

3. ARE DESIGNED PRIMARILY FOR PUPILS OF A PARTICULAR ETHNIC GROUP.

4. ADVOCATE ETHNIC SOLIDARITY INSTEAD OF THE TREATMENT OF PUPILS AS INDIVIDUALS.

B. IF THE STATE BOARD OF EDUCATION OR THE SUPERINTENDENT OF PUBLIC INSTRUCTION DETERMINES THAT A SCHOOL DISTRICT OR CHARTER SCHOOL IS IN VIOLATION OF SUBSECTION A, THE STATE BOARD OF EDUCATION OR THE SUPERINTENDENT OF PUBLIC INSTRUCTION SHALL NOTIFY THE SCHOOL DISTRICT OR CHARTER SCHOOL THAT IT IS IN VIOLATION OF SUBSECTION A. IF THE STATE BOARD OF EDUCATION OR THE SUPERINTENDENT OF PUBLIC INSTRUCTION DETERMINES THAT THE SCHOOL DISTRICT OR CHARTER SCHOOL HAS FAILED TO COMPLY WITH SUBSECTION A WITHIN SIXTY DAYS AFTER A NOTICE HAS BEEN ISSUED PURSUANT TO THIS SUBSECTION, THE STATE BOARD OF EDUCATION OR THE SUPERINTENDENT OF PUBLIC INSTRUCTION MAY DIRECT THE DEPARTMENT OF EDUCATION TO WITHHOLD UP TO TEN PER CENT OF THE MONTHLY APPORTIONMENT OF STATE AID THAT WOULD OTHERWISE BE DUE THE SCHOOL DISTRICT OR CHARTER SCHOOL. THE DEPARTMENT OF EDUCATION SHALL ADJUST THE SCHOOL DISTRICT OR CHARTER SCHOOL'S APPORTIONMENT ACCORDINGLY. WHEN THE STATE BOARD OF EDUCATION OR THE SUPERINTENDENT OF PUBLIC INSTRUCTION DETERMINES THAT THE SCHOOL DISTRICT OR CHARTER SCHOOL IS IN COMPLIANCE WITH SUBSECTION A, THE DEPARTMENT OF EDUCATION SHALL RESTORE THE FULL AMOUNT OF STATE AID PAYMENTS TO THE SCHOOL DISTRICT OR CHARTER SCHOOL.

C. THE DEPARTMENT OF EDUCATION SHALL PAY FOR ALL EXPENSES OF A HEARING CONDUCTED PURSUANT TO THIS SECTION.

D. ACTIONS TAKEN UNDER THIS SECTION ARE SUBJECT TO APPEAL PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10.

E. THIS SECTION SHALL NOT BE CONSTRUED TO RESTRICT OR PROHIBIT:

1. COURSES OR CLASSES FOR NATIVE AMERICAN PUPILS THAT ARE REQUIRED TO COMPLY WITH FEDERAL LAW.

2. THE GROUPING OF PUPILS ACCORDING TO ACADEMIC PERFORMANCE, INCLUDING CAPABILITY IN THE ENGLISH LANGUAGE, THAT MAY RESULT IN A DISPARATE IMPACT BY ETHNICITY.

3. COURSES OR CLASSES THAT INCLUDE THE HISTORY OF ANY ETHNIC GROUP AND THAT ARE OPEN TO ALL STUDENTS, UNLESS THE COURSE OR CLASS VIOLATES SUBSECTION A.

4. COURSES OR CLASSES THAT INCLUDE THE DISCUSSION OF CONTROVERSIAL ASPECTS OF HISTORY.

F. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO RESTRICT OR PROHIBIT THE INSTRUCTION OF THE HOLOCAUST, ANY OTHER INSTANCE OF GENOCIDE, OR THE HISTORICAL OPPRESSION OF A PARTICULAR GROUP OF PEOPLE BASED ON ETHNICITY, RACE, OR CLASS.

Sec. 2. Section 15-843, Arizona Revised Statutes, is amended to read:

15-843. Pupil disciplinary proceedings

A. An action concerning discipline, suspension or expulsion of a pupil is not subject to title 38, chapter 3, article 3.1, except that the governing board of a school district shall post regular notice and shall take minutes of any hearing held by the governing board concerning the discipline, suspension or expulsion of a pupil.

B. The governing board of any school district, in consultation with the teachers and parents of the school district, shall prescribe rules for the discipline, suspension and expulsion of pupils. The rules shall be consistent with the constitutional rights of pupils and shall include at least the following:

1. Penalties for excessive pupil absenteeism pursuant to section 15-803, including failure in a subject, failure to pass a grade, suspension or expulsion.

2. Procedures for the use of corporal punishment if allowed by the governing board.

3. Procedures for the reasonable use of physical force by certificated or classified personnel in self-defense, defense of others and defense of property.

4. Procedures for dealing with pupils who have committed or who are believed to have committed a crime.

5. A notice and hearing procedure for cases concerning the suspension of a pupil for more than ten days.

6. Procedures and conditions for readmission of a pupil who has been expelled or suspended for more than ten days.

7. Procedures for appeal to the governing board of the suspension of a pupil for more than ten days, if the decision to suspend the pupil was not made by the governing board.

8. Procedures for appeal of the recommendation of the hearing officer or officers designated by the board as provided in subsection F of this section at the time the board considers the recommendation.

C. Penalties adopted pursuant to subsection B, paragraph 1 of this section for excessive absenteeism shall not be applied to pupils who have completed the course requirements and whose absence from school is due solely

to illness, disease or accident as certified by a person who is licensed pursuant to title 32, chapter 7, 13, 15 or 17.

D. The governing board shall:

1. Support and assist teachers in the implementation and enforcement of the rules prescribed pursuant to subsection B of this section.

2. Develop procedures allowing teachers and principals to recommend the suspension or expulsion of pupils.

3. Develop procedures allowing teachers and principals to temporarily remove disruptive pupils from a class.

4. Delegate to the principal the authority to remove a disruptive pupil from the classroom.

E. If a pupil withdraws from school after receiving notice of possible action concerning discipline, expulsion or suspension, the governing board may continue with the action after the withdrawal and may record the results of such action in the pupil's permanent file.

F. In all action concerning the expulsion of a pupil, the governing board of a school district shall:

1. Be notified of the intended action.

2. Either:

(a) Decide, in executive session, whether to hold a hearing or to designate one or more hearing officers to hold a hearing to hear the evidence, prepare a record and bring a recommendation to the board for action and whether the hearing shall be held in executive session.

(b) Provide by policy or vote at its annual organizational meeting that all hearings concerning the expulsion of a pupil conducted pursuant to this section will be conducted before a hearing officer selected from a list of hearing officers approved by the governing board.

3. Give written notice, at least five working days before the hearing by the governing board or the hearing officer or officers designated by the governing board, to all pupils subject to expulsion and their parents or guardians of the date, time and place of the hearing. If the governing board decides that the hearing is to be held in executive session, the written notice shall include a statement of the right of the parents or guardians or an emancipated pupil who is subject to expulsion to object to the governing board's decision to have the hearing held in executive session. Objections shall be made in writing to the governing board.

G. If a parent or guardian or an emancipated pupil who is subject to expulsion disagrees that the hearing should be held in executive session, it shall be held in an open meeting unless:

1. If only one pupil is subject to expulsion and disagreement exists between that pupil's parents or guardians, the governing board, after consultations with the pupil's parents or guardians or the emancipated pupil, shall decide in executive session whether the hearing will be in executive session.

2. If more than one pupil is subject to expulsion and disagreement exists between the parents or guardians of different pupils, separate hearings shall be held subject to this section.

H. This section does not prevent the pupil who is subject to expulsion or suspension, and the pupil's parents or guardians and legal counsel, from attending any executive session pertaining to the proposed disciplinary action, from having access to the minutes and testimony of the executive session or from recording the session at the parent's or guardian's expense.

I. In schools employing a superintendent or a principal, the authority to suspend a pupil from school is vested in the superintendent, principal or other school officials granted this power by the governing board of the school district.

J. In schools that do not have a superintendent or principal, a teacher may suspend a pupil from school.

K. In all cases of suspension, it shall be for good cause and shall be reported within five days to the governing board by the superintendent or the person imposing the suspension.

L. RULES PERTAINING TO THE DISCIPLINE, SUSPENSION AND EXPULSION OF PUPILS SHALL NOT BE BASED ON RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN OR ANCESTRY. IF THE DEPARTMENT OF EDUCATION, THE AUDITOR GENERAL OR THE ATTORNEY GENERAL DETERMINES THAT A SCHOOL DISTRICT IS SUBSTANTIALLY AND DELIBERATELY NOT IN COMPLIANCE WITH THIS SUBSECTION AND IF THE SCHOOL DISTRICT HAS FAILED TO CORRECT THE DEFICIENCY WITHIN NINETY DAYS AFTER RECEIVING NOTICE FROM THE DEPARTMENT OF EDUCATION, THE SUPERINTENDENT OF PUBLIC INSTRUCTION MAY WITHHOLD THE MONIES THE SCHOOL DISTRICT WOULD OTHERWISE BE ENTITLED TO RECEIVE FROM THE DATE OF THE DETERMINATION OF NONCOMPLIANCE UNTIL THE DEPARTMENT OF EDUCATION DETERMINES THAT THE SCHOOL DISTRICT IS IN COMPLIANCE WITH THIS SUBSECTION.

~~L.~~ M. The principal of each school shall ensure that a copy of all rules pertaining to discipline, suspension and expulsion of pupils is distributed to the parents of each pupil at the time the pupil is enrolled in school.

~~M.~~ N. The principal of each school shall ensure that all rules pertaining to the discipline, suspension and expulsion of pupils are communicated to students at the beginning of each school year, and to transfer students at the time of their enrollment in the school.

Sec. 3. Effective date

This act is effective from and after December 31, 2010.

APPROVED BY THE GOVERNOR MAY 11, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 12, 2010.