

**SB165 INTRODUCED**



1 SB165  
2 4WFBII3-1  
3 By Senator Smitherman  
4 RFD: Education Policy  
5 First Read: 27-Feb-24



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SYNOPSIS:

Under existing law, each local board of education is required to annually adopt and distribute a code of student conduct that details specific grounds and procedures for addressing student disciplinary actions.

This bill would provide a uniform statewide system of procedural due process protections relating to the suspension and expulsion of public school students for violating the student code of conduct or state law.

This bill would also provide for the adoption of any necessary rules to implement this act by the State Board of Education.

A BILL  
TO BE ENTITLED  
AN ACT

Relating to K-12 public education; to amend Section 16-1-14, Code of Alabama 1975; to provide a uniform system of procedural due process protections for students facing suspension or expulsion for violating the student code of conduct or state law; and to require the State Board of



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29 Education to adopt rules to implement this act.

30 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

31 Section 1. Section 16-1-14 of the Code of Alabama 1975,  
32 is amended to read as follows:

33 "§16-1-14

34 (a) As used in this section, the following terms have  
35 the following meanings:

36 (1) EXPULSION. The exclusion of a student from his or  
37 her regular school environment for more than 90, and less than  
38 180, school days for disciplinary purposes.

39 (2) LONG-TERM SUSPENSION. The exclusion of a student  
40 from his or her regular school environment for more than 10,  
41 and less than 90, school days for disciplinary purposes.

42 (3) SUBSTANTIAL CLASSROOM DISRUPTION. Conduct that is  
43 so disruptive that a reasonable teacher's ability to teach or  
44 a reasonable student's ability to learn is impeded.

45 (b) Each local board of education~~Any city, county, or~~  
46 ~~other local public school board shall~~, consistent with Section  
47 16-28-12, ~~prescribe~~ shall adopt rules ~~and regulations~~ with  
48 respect to behavior and discipline of ~~pupils~~ students enrolled  
49 in the schools under its jurisdiction and, in order to enforce  
50 ~~such the~~ rules ~~and regulations~~, may remove, isolate, or  
51 separate ~~pupils~~ students who create disciplinary problems in  
52 any classroom or other school activity and whose presence in  
53 the class may be detrimental to the best interest and welfare  
54 of the ~~pupils of such~~ students of the class as a whole. Any  
55 rules ~~and regulations~~ adopted pursuant to this section shall  
56 be approved by the State Board of Education.



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57           (c) Any~~such~~ removal, isolation, or separation  
58 authorized under this section may not deprive~~such pupils of~~  
59 ~~their~~ a student of his or her full right to an equal and  
60 adequate education.

61           (d) (1) A student under 12 years of age may not be  
62 disciplined with a long-term suspension nor expelled from a  
63 public school, unless the behavior of the student endangers  
64 the physical safety of the student, other students, or school  
65 personnel or causes a substantial classroom disruption, or  
66 unless the student intentionally causes damage to school  
67 property in excess of one thousand dollars (\$1,000), and only  
68 as a last resort when other disciplinary measures have been  
69 exhausted.

70           (2) A student in any grade may not be suspended or  
71 expelled from a public school for truancy, tardiness, a  
72 violation of the code of student conduct, or a violation of  
73 state law.

74           (e) Following an alleged student disciplinary incident  
75 or infraction, the principal, or his or her designee, shall  
76 consider all of the following factors before recommending or  
77 initiating disciplinary action against a student:

78           (1) The age of the student.

79           (2) The disciplinary history of the student.

80           (3) The seriousness of the violation or behavior.

81           (4) Whether a lesser intervention would appropriately  
82 address the behavior of the student.

83           (f) Following an alleged violation of the code of  
84 student conduct or an alleged violation of state law that



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85 results in a recommendation for the long-term suspension or  
86 expulsion of a student, the local board of education, at a  
87 minimum, shall ensure that all of the following procedures are  
88 followed:

89 (1) The student is afforded an opportunity for a  
90 disciplinary hearing before the local board of education, or a  
91 designee of the local board of education, to determine whether  
92 the alleged violation has occurred.

93 (2) The student, and his or her parent or guardian,  
94 receive reasonable written notice of the disciplinary hearing,  
95 delivered to them personally or by mail. If the written notice  
96 is not responded to by a parent or guardian, the hearing shall  
97 be waived. The notice shall include:

98 a. A statement of the time, place, and nature of the  
99 hearing;

100 b. A short and plain statement detailing the alleged  
101 conduct, the provision of the code of student conduct or state  
102 law allegedly violated, and any recommended discipline;

103 c. A statement outlining the rights of the student at  
104 the hearing; and

105 d. An optional waiver of the disciplinary hearing  
106 indicating the parent or guardian's assent to the alleged  
107 violation or violations and to the recommended discipline.

108 (3) If the notice has been responded to by a parent or  
109 guardian, the disciplinary hearing shall occur within 10  
110 school days after the initial suspension from school, unless  
111 good cause is otherwise shown or upon agreement of the  
112 parties.



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113           (4) The student may be represented at the hearing by  
114 legal counsel or another advocate of the student's choice at  
115 the student's expense.

116           (5) At least five days before the hearing, the student,  
117 parent or guardian, and legal counsel or advocate of the  
118 student may review any audio or video recording of the  
119 incident and, consistent with federal and state student  
120 records laws and regulations, any records, documents, or other  
121 information that may be presented as evidence at the hearing,  
122 including written statements made by witnesses related to the  
123 alleged incident leading to the suspension or expulsion.

124           (6) Representatives from the school seeking the  
125 proposed disciplinary action shall offer evidence at the  
126 hearing that the student violated the code of student conduct  
127 or state law. Evidence of the student's intent at the time of  
128 the incident underlying the alleged violation may be used, if  
129 necessary, solely for determining an appropriate and  
130 proportionate disciplinary response.

131           (7) The student, parent or guardian, or legal counsel  
132 or advocate may present a defense, question adverse witnesses  
133 who are present at the hearing and offering testimony,  
134 excluding students under 14 years of age, and offer evidence,  
135 including oral testimony from supporting witnesses, written  
136 statements, and other documentary evidence and audio or video  
137 recordings at the hearing.

138           (8) Each party to the hearing, upon request, shall  
139 receive an electronic or written record of the hearing from  
140 the local board of education.



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141 (9) The student and parent or guardian of the student  
142 shall receive a written decision from the local board of  
143 education, or its designee, within five school days after the  
144 hearing. The written decision shall include, but not be  
145 limited to, all of the following information:

146 a. The basis for the decision, including a reference to  
147 the provision of the code of student conduct or state law that  
148 the student is accused of violating.

149 b. A statement detailing the information that shall be  
150 included in the official record of the student.

151 c. A statement detailing the right of the student to  
152 appeal the decision pursuant to the code of student conduct of  
153 the local board of education and Section 12-15-115, and notice  
154 of the procedures necessary to file an appeal.

155 (g) The State Board of Education shall adopt rules  
156 addressing all of the following:

157 (1) The factors a local board of education, or its  
158 designee, shall consider when determining whether long-term  
159 suspension or expulsion is an appropriate disciplinary measure  
160 commensurate with the disciplinary incident or infraction  
161 committed, except as otherwise provided in Sections 16-1-24.1  
162 and 16-1-24.3. These factors may include, but are not limited  
163 to, the intent of the student, the culpability of the student,  
164 any relevant extenuating circumstances, and the impact of the  
165 alleged behavior on the school environment.

166 (2) Any other issue the board deems relevant and  
167 necessary to implement this section.

168 (h) Nothing in this section shall be construed to



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169 infringe on any right provided to a student pursuant to the  
170 federal Individuals with Disabilities Education Act, Family  
171 Educational Rights and Privacy Act, Section 504 of the  
172 Rehabilitation Act of 1973, or the Americans with Disabilities  
173 Act of 1990."

174           Section 2. This act shall become effective on October  
175 1, 2024.